NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA Appellant v. KRISTIN LEIGHT JAKUB	: : : : : : : : :	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 1529 WDA 2025

Appeal from the Order Entered October 30, 2025
In the Court of Common Pleas of Butler County Criminal Division at
No(s): CP-10-CR-0001255-2024

BEFORE: STABILE, J., LANE, J., and BENDER, P.J.E.

MEMORANDUM BY LANE, J.: **FILED: November 10, 2026**

The Commonwealth appeals from the order granting in part and denying in part the *omnibus* pretrial motion of Kristin Leight Jakub ("Jakub"), in particular suppressing certain evidence. We affirm in part and reverse in part.

The Commonwealth charged Jakub with three counts each of theft by unlawful taking and receiving stolen property. Following a preliminary hearing, the trial court bound over the charges. Jakub then filed an *omnibus* pretrial motion, seeking suppression of some evidence, as well as the dismissal of some of the allegations under *habeas corpus.* As the Commonwealth's issue on appeal concerns the evidence presented to establish a *prima facie* case against Jakub, we review in detail the following

evidence presented at both the preliminary hearing and *omnibus* motion hearing.[1]

This matter concerns State Pipe Services (the "company"), which was in the business of "construction utility work," including construction and work on water and sewer lines.[2] N.T., 11/1/24, at 5, 8, 51. The company had approximately forty-four employees, and in 2019 and 2020 grossed $8 to $9 million. ***See*** N.T., 6/24/25, at 11, 21. From August 2019 through February 2022, a period of approximately two and one half years, Jakub worked as the controller, and was responsible for "[a]ll the financial stuff," including payroll, taxes, and paying "all the bills." N.T., 11/1/24, at 1.

The owner of the company Scott Burns ("Scott"), died in March 2021 — about nineteen months after Jakub started working there. His wife, Valerie Burns ("Valerie"),[3] who did not "have anything to do with the company," testified that approximately two months before his death, Scott asked her "to start looking over the books." ***Id***. at 7. When Scott died, Valerie became the

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[1] ***See Commonwealth v. Wroten***, 257 A.3d 734, 741 (Pa. Super. 2021) (providing that "where the Commonwealth seeks to establish a *prima facie* case against the accused after charges were dismissed at the preliminary hearing, the Commonwealth may proceed "with the same evidence presented at the first hearing ***or with additional evidence***").

[2] ***See*** 18 Pa.C.S.A. §§ 3921(a), 3925(a). The record also indicates that the business involved here, Jakub's prior employer, has filed a civil suit against her. ***See*** N.T., 11/1/24, at 29.

[3] As Scott and Valerie share the same last name, we refer to them by their first names.

owner, and she began reviewing the company's financial records. After Jakub left the company, a new controller assumed that role, and she also investigated the financial records.

At the preliminary hearing, the Commonwealth presented the following testimony. Jakub had sole access to the company's QuickBooks accounting records. Valerie attempted to access them as well, and Jakub was to assist Valerie, but "she would never finish a whole thing [*sic*]" and "show [her] how to do something." N.T., 11/1/24, at 17. Valerie was eventually able to review the QuickBooks with the assistance of her niece.

Jakub had a company credit card and was permitted to use it for business expenses. ***See id***. at 20. She was also solely responsible for paying the company's credit card bills. ***See id***. at 46. In the file where company credit card statements, along with supporting receipts provided by employees, should have been kept, there was instead a typed "piece of paper," an Excel spreadsheet, listing purchase dates and amounts. ***Id***. at 12; ***see also*** N.T., 6/24/25, at 38. Valerie obtained statements from the credit card company, which showed more charges than the typed sheet. Subsequently, the company learned that Jakub had redirected the credit card statements to her email address only, for all but three months of the time she worked there. Jakub paid the credit card bills "only as an ACH," rather than with company checks. ***See also*** N.T., 6/24/25, at 38. Some of Jakub's credit card purchases were not business related, such as: payments for her mortgage and home

utilities; "Cash Apps and Western Unions sent to her friends" and children; charges at grocery stores, bars, and restaurants, where the company did "not entertain people;" and charges for "escape rooms, nails, [and] eyelashes." N.T., 11/1/24, at 25-26; ***see also*** N.T., 6/24/25, at 31, 41. The company estimated the total amount of unauthorized credit card expenses, over the course of Jakub's employment, was $76,000. The charges made after Scott's death totaled more than $2,000. ***See*** N.T., 11/1/24, at 90.

Additionally, Jakub "paid herself more money" by increasing the number of hours worked and her pay rate, "and then went back" and "change[d] her pay stub[s]." ***Id***. at 28, 39, 44 (unnecessary capitalization omitted). Jakub also "paid herself . . . five and a half weeks[']' vacation on top of her 40 hours a week" worked. N.T., 6/24/25, at 43. After reviewing Jakub's bank statements, the company observed that its payroll records did not accurately reflect the amounts paid to her. For example, the company's records showed a net pay to Jakub on August 7, 2020 of $991.83, but her bank statement showed the amount deposited was $3,000 more — $3,991.83. ***See id***. at 44. Meanwhile, because Jakub was a "salaried" employee, and thus every paycheck should have been in the same amount for forty hours worked. ***Id***. at 39, 41-42. Finally, Jakub also "gave herself" a lump payment of $28,196.73. N.T., 6/24/25, at 44, 46. Valerie estimated the total amount of unauthorized wages to be $58,000. ***See*** N.T., 11/1/24, at 43-44. The amount after Scott's death was more than $4,000. ***See id***. at 90.

Finally, in March 2021, on the day after Scott's death, Jakub took her personal vehicle, a Hyundai Sante Fe, to different branch of the car dealership employed by the company for repairs to its corporate vehicles.[4] She had a new engine installed and paid the $7,375.20 bill by company check. The company did not have a record of this charge, but learned this information in the civil suit filed by the company against Jakub, when it obtained the invoice from the dealership. ***See id***. at 29-30. That invoice was "made out to [Jakub's] home address" and indicated the charge was for company "vehicle 424," which was a Nissan pick-up truck. N.T., 6/24/25, at 50-51. We note that all company checks paid to vendors required "two signatures." N.T., 11/1/24, at 48. The chief operating officer of the company, Thomas Morris ("Morris") testified and acknowledged that he signed the check which paid the car repair invoice. However, he also stated that he "signed a lot of checks," would not have "give[n] it a second thought because [they had] a lot of suppliers," and did not know he was authorizing work on Jakub's personal vehicle. N.T., 6/24/25, at 10, 16. Jakub also used company funds to purchase new tires for her personal vehicle. We note that the new controller testified

[4] Valerie explained that the company took its vehicles to a "Cochran dealership" in Cranberry for repairs. N.T., 11/1/24, at 30. When Valerie called that location about the invoice, the dealership advised it had no record of it, and suggested she call the other locations. Valerie thus learned that Jakub had taken her vehicle to the Monroeville branch.

that in "the civil case," Jakub "said that . . . Scott had given her permission for the engine." ***Id***. at 49-50.

Finally, Cranberry Township Police Detective Edward Horan ("Detective Horan") testified to the following. In October 2023, he interviewed Jakub at her residence. Jakub told the detective that before he died, Scott approved the repairs for her personal vehicle. ***See*** N.T., 11/1/24, at 93. However, Jakub also "acknowledge[d] that she should not have made some of these purchases after [Scott] passed," and said, "I probably should have stopped this after he passed away."[5] ***Id***.

At this juncture, we note that the three charges each of theft by unlawful taking and receiving stolen property related to these groupings of offenses: (1) Jakub's alleged unauthorized use of the company credit card for approximately $76,285 in charges; (2) the alleged overpayment of wages of approximately $58,522; and (3) the alleged unauthorized use of $8,257 for repairs and tires for her vehicle. The expenditures pre-dating Scott's death comprise the vast majority of the first two categories above. Jakub did not present any testimony or evidence at the preliminary hearing or *omnibus* motion hearing.

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[5] Valerie and Detective Horan testified at the November 1, 2024 preliminary hearing. Detective Horan also testified at the June 24, 2025 *omnibus* motion hearing, along with the chief operating officer Morris and the new controller.

At the latter hearing, the Commonwealth argued that Jakub's actions — especially making credit card purchases for personal expenses, sending "Cash Apps and Western Unions sent to her friends" and children, and paying more wages to herself and then subsequently changing the payroll records — were evidence of deceit and an intent to defraud. N.T., 6/24/25, at 31-32.

On October 30, 2025, the trial court entered the underlying order, along with a memorandum opinion, which: (1) granted Jakub's "motion to suppress all expenses prior to death of Scott;" (2) denied her "motion to suppress" the remaining expenses; and (3) denied her motion to suppress the statements made to Detective Horan. Order, 10/30/25 (unnecessary capitalization omitted).

The Commonwealth filed a timely notice of appeal.[6] The Commonwealth and the trial court have complied with Pa.R.A.P. 1925.[7]

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[6] While the trial court's order is not a final order, the Commonwealth has filed a certification that it "will terminate or substantially handicap the prosecution." Certification Per Rule 311(d), 11/25/25; ***see also*** Pa.R.A.P. 311(d) (providing that "the Commonwealth may take an appeal as of right from an order that does not end the entire case where the Commonwealth certifies in the notice of appeal that the order will terminate or substantially handicap the prosecution"), 341(a) (providing that "an appeal may be taken as of right from any final order"), (b)(1) (defining a "final order" generally as one that "disposes of all claims and of all parties").

[7] The Magisterial District court conducted the preliminary hearing. The Honorable Timothy McCune presided over the *omnibus* motion hearing. Judge McCune, however, retired after the Commonwealth's filing of the notice of appeal. This matter was reassigned to the Honorable Maura Palumbi, who issued a Rule 1925(a) opinion that did not address the merits of the
(Footnote Continued Next Page)

The Commonwealth presents the following issue for our review: "Whether the trial court erred by granting [Jakub's] *omnibus* pretrial motion, suppressing every one of the disputed expenditures prior to the death of the company's owner, Scott . . .." Commonwealth's Brief at 3 (unnecessary capitalization omitted).[8]

On appeal, the Commonwealth avers that the trial court's conclusion, that it failed to present a *prima facie* case of Jakub's wrongdoing prior to Scott's death, was "without proper factual support." Commonwealth's Brief at 13. We consider the applicable standard of review:

> We review a decision to grant a pre-trial petition for a writ of habeas corpus by examining the evidence and reasonable inferences derived therefrom in a light most favorable to the Commonwealth. . . . "[T]he Commonwealth's *prima facie* case for a charged crime is a question of law as to which an appellate court's review is plenary." [T]he trial court is afforded no discretion in ascertaining whether, as a matter of law and in light of the facts presented to it, the Commonwealth has carried its pre-

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Commonwealth's issue, but rather relied on the memorandum opinion previously filed by Judge McCune.

[8] We observe that while the Commonwealth's Rule 1925(b) statement and statement of question involved raise the trial court's ***suppression*** ruling, its argument instead goes to whether it presented a ***prima facie case*** regarding the expenditures pre-dating Scott's death. However, the trial court's order similarly "***suppress[ed]*** all expenses prior to the death of Scott," while its accompanying memorandum opinion reasoned that "the record fails to show that the disputed expenditures were not authorized or approved prior to the death of Scott," and thus the Commonwealth "failed to ***present prima facie evidence***." Order, 10/30/25 (emphasis added); ***see also*** Memorandum Opinion and Order of Court, 10/30/25, at 2 (emphasis added). On this record, we determine the Commonwealth's Rule 1925(b) statement set forth the error that it "intend[ed] to assert with sufficient detail to identify the issue to be raised for the judge." Pa.R.A.P. 1925(b)(4)(ii).

> trial, *prima facie* burden to make out the elements of a charged crime." Hence, we are not bound by the legal determinations of the trial court. . . .

Commonwealth v. Dantzler, 135 A.3d 1109, 1111 (Pa. Super. 2016) (citations omitted).

"At the preliminary hearing stage of a criminal prosecution, the Commonwealth's burden is not to prove a defendant's guilt beyond a reasonable doubt; rather, it is merely to put forth a *prima facie* case of the defendant's guilt." ***Commonwealth v. Huggins***, 836 A.2d 862, 866 (Pa. 2003). This Court has explained:

> A *prima facie* case consists of evidence, read in the light most favorable to the Commonwealth, that sufficiently establishes both the commission of a crime and that the accused is probably the perpetrator of that crime.
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> The Commonwealth establishes a *prima facie* case when it produces evidence[] that, if accepted as true, would warrant the trial judge to allow the case to go to a jury. The Commonwealth need not prove the elements of the crime beyond a reasonable doubt; rather, the *prima facie* standard requires evidence of the existence of each and every element of the crime charged. Moreover, the weight and credibility of the evidence are not factors at this stage, and the Commonwealth need only demonstrate sufficient probable cause to believe the person charged has committed the offense. Inferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case.

Commonwealth v. Bartlett, 335 A.3d 776, 780 (Pa. Super. 2025) (citations omitted). "In evaluating whether the [C]ommonwealth has made out its *prima facie* case, criminal intent may be inferred from circumstantial

evidence." ***Commonwealth ex rel. Lagana v. Office of Attorney Gen.***, 662 A.2d 1127, 1129-30 (Pa. Super. 1995).

Finally, we note:

> A pre-trial *habeas corpus* motion is the proper means for testing whether the Commonwealth has sufficient evidence to establish a *prima facie* case. "To demonstrate that a *prima facie* case exists, the Commonwealth must produce evidence of every material element of the charged offense(s) as well as the defendant's complicity therein." . . .

Dantzler, 135 A.3d at 1112 (citations omitted). As noted above, "where the Commonwealth seeks to establish a *prima facie* case against the accused after charges were dismissed at the preliminary hearing, the Commonwealth may proceed 'with the same evidence presented at the first hearing or with additional evidence.'" ***Wroten***, 257 A.3d at 741 (citation omitted).

The Crimes Code[9] defines the offense of theft by unlawful taking, in relevant part, as follows: "A person is guilty of theft if he unlawfully takes, or exercises unlawful control over, movable property of another with intent to deprive him thereof." 18 Pa.C.S.A. § 3921(a). The Crimes Code defines receiving stolen property as follows: "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." 18 Pa.C.S.A. § 3925(a). The term "receiving" is defined as

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[9] ***See*** 18 Pa.C.S.A. §§ 101-9546.

"acquiring possession, control or title, or lending on the security of the property." 18 Pa.C.S.A. § 3925(b).

Here, the Commonwealth maintains that it presented evidence at both the preliminary hearing and the *omnibus* pretrial hearing to establish a *prima facie* case that Jakub also committed the offenses of theft by unlawful taking and receiving stolen property prior to Scott's death. In support, the Commonwealth cites "a litany of actions" by Jakub "that [went] against the normal course of actions by any company's controller," including: transferring company funds to her children and her boyfriend; using company funds to pay her own utility bills and mortgage, as well as "escape rooms, eyelashes, nails, [*sic*]" and other expenses that the current controller "testified were not business-related;" terminating the mailing of credit card statements to the company, and instead redirecting the statements to her own email; paying the company's credit card bills with online banking, rather than by check; amending the number of hours she worked, as well as her hourly rate; documenting in the company's records that she received a paycheck of $991.83, where her bank statement showed the amount received was instead $3,991.83; and using company funds to pay a mechanic's invoice for purported work on a company vehicle, when the work was for her own car, and causing the invoice to be sent to her home address. ***Id***. at 6-8. The Commonwealth maintains that "[t]he inferences drawn from" these attempts to conceal her activities, "taken in the light most favorable to the

Commonwealth, show [that Jakub] took unlawful possession of . . . funds from the company that she was not entitled to[,]" without intent to ever return the funds. ***Id***. at 13.

The Commonwealth concedes that Detective Horan testified that Jakub told him that Scott "gave her permission [for] all the above . . . expenses prior to his death." ***Id***. at 9. Nevertheless, the Commonwealth reasons, no one else testified at either hearing that Scott gave such permission. Finally, the Commonwealth reasons that if Jakub "truly believed she had [the owner's] authority," she would have "ceased" her conduct after his death. ***Id***. at 14.

The trial court's memorandum opinion, accompanying the underlying order, set forth all the following evidence. Jakub "voluntarily left the company." Memorandum Opinion, 10/30/25, at 2. "[T]he company's bills were paid by check signed with two signatures," and before his death, Scott "prepare[d] employee timecards and [gave] them to [Jakub] to prepare the payroll." ***Id***. After Scott's death, Valerie assumed his duties, but previously, "she had nothing to do with the company." ***Id***. Valerie did not review Jakub's payroll records until after she left employment. Against this evidence, the trial court found:

> The record fails to show that the disputed expenditures were not authorized or approved prior to the death of Scott [in March] 2021. According to the record, the credit card bills, the [vehicle repair] statement, and [Jakub's] pay were all approved and paid by the company, before [Scott's] death. Therefore, . . . the court finds that the Commonwealth has failed to present *prima facie* evidence of [theft by unlawful taking and receiving stolen property] prior to [Scott's] death.

Id. at 2.[10]

After careful review of the record, we determine the Commonwealth met its burden to present a *prima facie* case that Jakub committed theft by unlawful taking and receiving stolen property before Scott's death. In assessing Jakub's petition for a writ of *habeas corpus*, the trial court wholly ignored the evidence now cited by the Commonwealth on appeal. We reiterate the Commonwealth presented evidence that: (1) for the majority of her tenure at the company, Jakub redirected credit card statements to her email, did not provide these statements to the company but rather prepared Excel spreadsheets showing only some charges; (2) paid the credit card statements online, thereby avoiding payment by company check, which required two signatures; (3) altered payroll records so that they would not show the higher amounts deposited to her bank account; and (4) went to a different branch of the car dealership usually employed by the company, indicated repairs were for a company vehicle when they were in fact for her own vehicle, and provided her own address to the dealership for invoice purposes. Reviewing this evidence in the light most favorable to the Commonwealth, we hold that it "demonstrate[d] sufficient probable cause to believe [Jakub] has committed the" charged offenses. ***Bartlett***, 335 A.3d at 780. All of this conduct was

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[10] The trial court found, however, that the Commonwealth established a *prima facie* case for the charges relating to the expenses after Scott's death. ***See*** Memorandum Opinion, 10/30/25, at 3.

circumstantial evidence of Jakub's consciousness of guilt. Specifically, the evidence would show that Jakub: (1) exercised unlawful control over the company's funds with intent to deprive the company thereof; and (2) intentionally received or disposed of the company's funds, "knowing that it has been stolen[] or believing that it has probably been stolen." 18 Pa.C.S.A. §§ 3921(a), 3925(a).

To the extent that the above evidence conflicted with the evidence cited by the trial court — that Jakub stated Scott had given permission for these expenditures before his death — we reiterate that "the weight and credibility of the evidence are not factors at" the preliminary hearing stage. ***Bartlett***, 335 A.3d at 780. Thus, the issue before the trial court was not how it should resolve any conflicting evidence, but rather whether the Commonwealth presented evidence that, if accepted as true, established the elements of the crime charged.

Accordingly, we reverse in part the order of the trial court, specifically the portion of the order suppressing the expenses pre-dating Scott's death. We affirm the remaining portions of the trial court's order.

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

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

11/10/2026