

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

V.

ERICA DAWN STROTMAN

Appellant

: No. 1575 WDA 2025

Appeal from the Judgment of Sentence Entered October 16, 2025
In the Court of Common Pleas of Clarion County
Criminal Division at No: CP-16-CR-0000019-2025

BEFORE: STABILE, J., DUBOW, J., and STEVENS, P.J.E.*

MEMORANDUM BY STABILE, J.:

FILED: August 26, 2026

Appellant, Erica Dawn Strotman, appeals from the October 16, 2025, judgment of sentence imposing 60 days to two years less one day for access device fraud (18 Pa.C.S.A. § 4106 (a)(1)(ii)) and a concurrent two years of probation for theft by unlawful taking (18 Pa.C.S.A. § 3921(b)). We vacate and remand for resentencing.

The relevant facts are as follows. In August of 2024, Nancy Watkins, the victim in this matter, reviewed her bank statements from Farmers National Bank and found three unfamiliar payments made to Central Electric Cooperative, an electricity provider. N.T. Trial, 8/6/25, at 24-25. Watkins was not a customer of Central Electric. ***Id.*** Central Electric investigated and linked

* Former Justice specially assigned to the Superior Court.

the payment to Appellant, Watkins' granddaughter, and her husband. ***Id.*** at 41. Watkins disputed the payments with her bank, and Central Electric refunded her money. ***Id.*** at 31. An investigation of Appellant's cellphone—in specific, the app she used to pay her Central Electric bill—evidenced three payments to Central Electric corresponding with the three payments that Watkins disputed. ***Id.*** at 75-77.

The Commonwealth charged Appellant with the aforementioned offenses on November 4, 2024. At the conclusion of a one-day jury trial on August 6, 2025, Appellant was convicted on both counts. On October 16, 2025, the trial court imposed sentence as set forth above. This timely appeal followed.¹

Appellant raises the following three issues:

1. Did the trial court commit reversible error in allowing the Commonwealth to admit bank records at trial through Nancy Watkins, when those records were not properly authenticated and were inadmissible hearsay?
2. Did the trial court commit reversible error in permitting Lisa Hoover from Central Electric Cooperative to testify regarding specialized software and programs that were requested but never disclosed in discovery?
3. Whether the Commonwealth presented sufficient evidence to support a finding of guilty for the offense of Theft by Unlawful Taking – Immovable Property?

Appellant's Brief at 5.

¹Appellant and the trial court complied with Pennsylvania Rule of Appellate Procedure 1925.

As Appellant's third issue challenging the sufficiency of the evidence, if meritorious, would be dispositive, we address it first. ***Commonwealth v. Koch***, 39 A.3d 996, 1001 (Pa. Super. 2011).

For a challenge to the sufficiency of the evidence, our standard of review is:

[W]hether 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 established 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 finder 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. Smith, 206 A.3d 551, 557 (Pa. Super. 2019) (citation omitted), *appeal denied*, 217 A.3d 202 (Pa. 2019). Furthermore, in conducting our analysis, we consider all evidence actually admitted at trial and do not review a diminished record. ***Commonwealth v. Smith***, 568 A.2d 600, 603 (Pa. 1989). Consequently, our examination is unaffected by our subsequent resolution of the evidentiary issues raised by Appellant.

A person is guilty of theft by unlawfully taking—immovable property if “he/she unlawfully transfers, or exercises unlawful control over, immovable

property of another or any interest therein with intent to benefit himself or another not entitled thereto.” 18 PA.C.S.A. § 3921(b).

Appellant argues that her conviction under this subsection cannot stand, because the funds from Watkins’ bank account constitute movable, rather than immovable, property. Movable property is defined as “Property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location.” 18 Pa.C.S.A. § 3901. Immovable property is defined as “all other property”. ***Id.***

Monetary funds have generally been held to be “movable property” for the purpose of a conviction under 18 PA.C.S.A. §3921. In ***Commonwealth v. Rozenweig***, 522 A.2d 1088 (Pa. 1987), our Supreme Court stated as follows: “If the facts alleged in the instant case are proven, [the defendant], by depositing checks made payable to [the victim] into his own account, clearly exercised unlawful control over movable property [of the victim] with intent to deprive [the victim] thereof.” ***Id.*** at 1091. There, as here, the money in question moved from one ledger balance to another. This has been our consistent approach with regard to the misappropriation of funds. ***See Commonwealth v. Bernasky***, 348 A.3d 304, 320-23 (Pa. Super. 2025) (upholding a conviction for theft of movable property where the defendant diverted funds from a trust); ***Commonwealth v. Payne***, 327 A.3d 620, 624-25 (Pa. Super. 2024) (holding that funds deposited into the defendant’s bank

account were movable property for purposes of a conviction under 18 Pa.C.S.A. § 3925(a)), *appeal denied*, 341 A.3d 55 (Pa. 2025); ***Commonwealth v. Crawford***, 254 A.3d 769, 780 (Pa. Super. 2021) (upholding a conviction for theft of movable property where the defendant misappropriated funds from an American Legion post), *appeal denied*, 267 A.3d 487 (Pa. 2021).

While the money transfer at issue in this case did not involve tangible currency – funds were electronically transferred- funds nonetheless moved from Watkins’s account to Central Electric’s account. Thus, consistent with our previous holdings, we conclude that the money transferred in the case sub-judice was movable property. The Commonwealth offers no legal support for its argument that the funds removed from Watkins bank account constituted immovable property, even though that remained the Commonwealth’s theory of the case throughout trial and on this appeal. Because Appellant was tried and convicted under a statutory subsection that does not apply to the offense she committed, we are constrained to vacate her conviction for theft by immovable property.

In her second issue, Appellant contends that Watkins bank statements were inadmissible because the Commonwealth did not properly authenticate them. Because we vacate Appellant’s theft conviction, and because she does not challenge her conviction for access devise fraud, her challenge to the admissibility of Watkins’ bank statements is moot. ***See, e.g.,***

Commonwealth v. Barr, 79 A.3d 668, 677 n.15 (Pa. Super. 2013) (noting that where our disposition of one issue before us renders another issue moot, we will decline to address the moot issue).

Appellant's third and final argument is that the Commonwealth committed a discovery violation prior to trial. In specific, Appellant argues that the trial court committed a reversible error in permitting Lisa Hoover of Central Electric to testify regarding the information she used to track the payments at issue in this case to Appellant. Appellant's Brief at 12. Hoover testified that she traced the payment to an email account in the name of Erica Schick—Appellant's maiden name. N.T. Trial, 8/6/25, at 41-42, 56. Appellant objected because the Commonwealth did not disclose the supporting documentation for Hoover's testimony during discovery. The record reveals that the Commonwealth requested the supporting documentation from Central Electric but was informed that the documentation would not be provided without a subpoena or warrant. The Commonwealth did not obtain a subpoena or warrant for the documents and chose instead to rely on Hoover's testimony. The Commonwealth explained that Appellant was aware prior to trial that Hoover would testify, and that the Commonwealth chose not to subpoena the documents. ***Id.*** at 49-50. The Commonwealth also argued that the documents in question were available to Appellant, as her husband was the accountholder. ***Id.*** at 51. Because there was no dispute that Appellant was aware, prior to trial, that the Commonwealth did not have the documents in

question, and because those documents were equally available to Appellant, the trial court overruled Appellant's objection and permitted Hoover's testimony. ***Id.*** at 52.

We discern no reversible error in the trial court's ruling. "Decisions involving discovery matters are within the sound discretion of the trial court and will not be overturned absent an abuse of that discretion." ***Commonwealth v. Smith***, 955 A.2d 391, 394 (Pa. Super. 2008). Pre-trial discovery in criminal cases is governed by Pennsylvania Rule of Criminal Procedure 573. Among the items the Commonwealth must disclose are documents material to the case. Pa.R.Crim.P. 573(B)(1)(f). Disclosure is mandatory pursuant to Rule 573 when the item in question is (1) requested by the defendant, (2) material to the case, and (3) within the possession or control of the prosecutor. ***Commonwealth v. Santos***, 176 A.3d 877, 882 (Pa. Super. 2017) (citing Pa.R.Crim.P. 573). Further, where the evidence in question is "equally accessible or inaccessible to both the Commonwealth and the defense, the defense cannot use the discovery rules against the Commonwealth for its failure to produce the evidence." ***Id.*** at 883.

As explained above, there is no dispute that the Commonwealth was not in possession of the documentation in question. Further, Appellant offers nothing to contradict the trial court's finding that the evidence in question was at least equally available to her, as her husband was the accountholder with Central Electric. Appellant contends that this failure to disclose the report that

Hoover relied on in her testimony amounted to “trial by ambush,” which the discovery rules are meant to prevent.² Appellant’s Brief at. 13-14.

Appellant’s argument is unpersuasive. It cannot be said that the defense was “ambushed” in this case. This case stemmed from the allegations that Appellant had used Watkins’ bank account to pay bills owed to Central Electric. Appellant and her counsel knew that the Commonwealth was going to call a witness from Central Electric to testify about the transactions. Appellant does not claim that Hoover was a surprise witness. Appellant has failed to articulate any valid basis for appellate relief on this issue

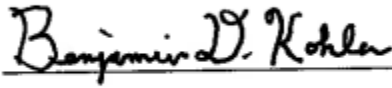
In summary, we have concluded that the Commonwealth failed to produce sufficient evidence in support of Appellant’s conviction for theft by unlawful taking of immovable property, because the property in question does not meet the statutory definition of immovable. Appellant has not challenged her conviction for access device fraud, and we have found no merit to her remaining arguments. Because our decision may upset the trial court’s sentencing scheme,³ we vacate the judgment of sentence in its entirety and remand for resentencing on the access device fraud conviction.

² Indeed, “the purpose of discovery rules is to permit parties in criminal matter to be prepared for trial.” ***Commonwealth v. Shelton***, 640 A.2d 892, 895 (Pa. 1994) Trial by ambush is contrary to spirit and letter of those rules and cannot be condoned.” ***Id.***

³ When this Court vacates one of several convictions, the ordinary course is to vacate all sentences and remand for resentencing without consideration of
(Footnote Continued Next Page)

Judgement of sentence vacated. Case remanded for resentencing.
Jurisdiction relinquished.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 08/26/2026

the vacated conviction. ***Commonwealth v. Carter***, 122 A.3d 388, 393 (Pa. Super. 2015).