COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

19-P-1246

COMMONWEALTH

vs.

LAUREEN V. NEFF.

MEMORANDUM AND ORDER PURSUANT TO RULE 23.0

After a jury-waived trial, the defendant, Laureen V. Neff, stood convicted of receiving a stolen motor vehicle. G. L. c. 266, § 28 (a).[1] On appeal, she challenges the denial of her motion for a required finding of not guilty. She asserts the evidence did not support a finding that she knew or should have known the motor vehicle she drove was stolen. We conclude otherwise, and affirm.

Discussion. We review the denial of a motion for a required finding of not guilty to determine "whether, after viewing the evidence in the light most favorable to the

[1] The defendant was arraigned on a multi-count complaint. On four of those counts the defendant submitted a defendant-capped plea. She was found responsible on two additional counts, and one count was dismissed. The defendant was found not guilty on another count and she only appeals from her conviction of receiving a stolen motor vehicle.

prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Commonwealth v. Latimore, 378 Mass. 671, 677 (1979), quoting Jackson v. Virginia, 443 U.S. 307, 318-319 (1979). To convict the defendant of having received a stolen motor vehicle, the Commonwealth is required to prove the vehicle was stolen, and that the defendant "(1) had possession of the motor vehicle; (2) knew or had reason to know the motor vehicle was stolen; and (3) intended to deprive the owner of rightful use of the vehicle." Commonwealth v. Darnell D., 445 Mass. 670, 673 (2005). The defendant contends the Commonwealth did not meet its burden in that it failed to prove that she knew the car was stolen. We disagree.

The Commonwealth may establish one's knowledge through circumstantial evidence. See Commonwealth v. Hunt, 50 Mass. App. Ct. 565, 569 (2000); Commonwealth v. Woody, 45 Mass. App. Ct. 906, 907 (1998) (direct proof of defendant's knowledge that vehicle was stolen may be inferred from circumstances, including possession of recently stolen car). The fact finder "should consider all the facts and circumstances surrounding the defendant's possession of stolen goods in drawing the inference and in deciding whether the Commonwealth has proved beyond a reasonable doubt that the defendant knew the goods [she]

possessed were stolen." Commonwealth v. Burns, 388 Mass. 178, 183 n.11 (1983).

In his testimony, Officer Santana indicated that the defendant: (1) took two to three minutes before stopping the car for him, (2) attempted leave the car before being asked to do so, (3) did not produce the car's registration, despite it being inside the vehicle, (4) gave the officer a false name, (5) appeared agitated and became combative with him when he asked that she step out of the vehicle, (6) told the officer more than once that she didn't know how she came into possession of the vehicle, and, finally, (7) said that she was headed to a nonemergency medical appointment (despite the late hour). This evidence, together with evidence that the car bore out-of-State plates and the rightful owner's identification was on the car's center console and visible to the defendant, amply support a reasonable inference that the defendant knew the motor vehicle was stolen. See Commonwealth v. Hunt, 50 Mass. App. Ct. 565, 569 (2000) (defendant parked vehicle and did so as to avoid detection, retreat from police officer, and implausible narratives about being lent vehicle all support reasonable inference that defendant "knew or believed the vehicle was stolen"); Commonwealth v. Kirkpatrick, 26 Mass. App. Ct. 595, 602 (1988) (knowledge can be reasonably inferred where "the defendant's possession of [stolen property] occurred in a

context fraught with suspicion brought about by his own misleading statements and conduct, including the eyebrow-raising tale of finding the [stolen property] by the side of the road").

Additionally, we are not persuaded that the sufficiency of the evidence is defeated by the defendant's justification for providing a false name and belated explanations that she (1) borrowed the car from a friend's unnamed neighbor; (2) did not see that the car bore Connecticut plates; and (3) assumed the identification on the console belonged to the neighbor's relative. None of these factors deteriorated the Commonwealth's case. "[T]he credibility of the defendant's witnesses and the weight of their testimony are issues for the [finder of fact] to decide." Commonwealth v. Platt, 440 Mass. 396, 404 (2003). Accordingly, we conclude the evidence supports the defendant's conviction. There was no error in the denial of her motion for a required finding.

Judgment affirmed.

By the Court (Wolohojian, Maldonado & Ditkoff, JJ.[2]),

Joseph F. Stanton

Clerk

Entered: July 31, 2020.

[2] The panelists are listed in order of seniority.