

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court building in the City of Richmond on Thursday, the 11th day of June, 2026.*

Present: Powell, C.J., Kelsey, Chafin, Russell, and Mann, JJ., and Millette and Goodwyn, S.JJ.

COMMONWEALTH OF VIRGINIA, APPELLANT,

against Record No. 250679  
Court of Appeals No. 1918-23-1

JACQUELINE LYNN ORTIZ, A/K/A APPELLEE.  
JACQUELINE LYNN ORTIZ-WHITAKER,

UPON AN APPEAL FROM A  
JUDGMENT RENDERED BY THE  
COURT OF APPEALS OF VIRGINIA.

Upon consideration of the record, briefs, and argument of counsel, the Court is of the opinion that there is reversible error in the judgment of the Court of Appeals.

On December 1, 2022, Officer Jeremy Hall (“Officer Hall”) was sitting in his patrol car in the parking lot of a shopping center when his license plate reader alerted him that a stolen vehicle had driven past. Officer Hall followed the vehicle through the parking lot in his patrol car and observed it come to a stop in a parking space.

Officer Hall parked his patrol car behind the stolen vehicle as a passenger exited from the rear of the vehicle and walked toward the shopping center. Officer Hall then exited his patrol car and approached the stolen vehicle on the driver’s side. The driver of the stolen vehicle, Deshawn Whitaker (“Whitaker”), exited the vehicle and, when Officer Hall attempted to take him into custody, ran. Unable to catch Whitaker, Officer Hall turned his attention back to the stolen vehicle and noticed Ortiz, who was sitting in the front passenger’s seat. When Officer Hall addressed Ortiz, she attempted to flee on foot. Officer Hall caught her and wrestled her to the ground. As they were on the ground, Whitaker returned to the scene, retrieved a handgun from

the bag he had dropped, and pointed it at Officer Hall. Officer Hall turned and fatally shot Whitaker, then took Ortiz into custody.

While she was in custody, Ortiz was interrogated by Sergeant Mark Laino (“Sergeant Laino”). During her interrogation, Sergeant Laino inquired who was with Ortiz when she woke up in the morning. Ortiz stated, “my husband and girlfriend.”<sup>1</sup> Sergeant Laino then attempted to confirm Ortiz’s statement, asking “your husband and your girlfriend?” Ortiz responded affirmatively. Ortiz then explained that Whitaker had driven her girlfriend to work in the stolen vehicle that morning while she rode along. That same morning, Whitaker and Ortiz encountered a friend of Whitaker’s<sup>2</sup> who asked if they wanted to smoke marijuana. The friend got into the back of the vehicle, and they drove to the shopping center. On the way to the shopping center, Whitaker stopped at a plasma center to allow Ortiz to use the restroom.

During the interrogation, Ortiz admitted that she ran from Officer Hall because she knew the car was stolen. She claimed that neither she nor Whitaker stole the car; rather, it was brought to them by a girl named Alyssa. Ortiz explained that Alyssa had stayed with her and Whitaker

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<sup>1</sup> Due to Ortiz’s mumbled answer, it is unclear whether she specifically said, “my husband and girlfriend” or “my husband and my girlfriend.” Grammatically, the result is the same, however, and any dispute about the nature of the relationship is clarified with Sergeant Laino’s follow-up question.

<sup>2</sup> Ortiz could not remember the name of the friend, but she stated she knew where he lived. When describing the friend, she explained that she thought he was older than Whitaker because the friend did not like dealing with younger women. According to Ortiz, Whitaker disagreed with the friend, stating that “my wife 20 and my girlfriend about to be 19.” It is unclear if the girlfriend that Whitaker referred to is the same girlfriend that Ortiz had mentioned earlier in the interview.

for a short period of time. During that time, Whitaker had driven all three of them in the stolen car to Ortiz's aunt's residence for Thanksgiving.<sup>3</sup>

According to Ortiz, she only found out the car was stolen when she got into an argument with Alyssa three days before her arrest. Ortiz explained that, after she learned Alyssa was only 17, she told Alyssa that she was no longer allowed to stay with them. Alyssa demanded that Ortiz bring her the car, but Ortiz refused. At that point, Alyssa told Ortiz not to worry about it because "y'all just going to get caught in the car anyway." Ortiz claimed that she "put two and two together" and realized the car was stolen. Ortiz later said she found out the circumstances under which the car was stolen only "a day or two" prior to her arrest.

Ortiz was charged with, inter alia, felony receiving stolen property in violation of Code § 18.2-108. At trial, Sergeant Laino testified and a video of the interrogation was played and admitted into evidence without objection. After the Commonwealth rested, Ortiz moved to strike the evidence, asserting there was no evidence she possessed the stolen vehicle. The trial court overruled the motion, finding it "very significant" that Whitaker, who was caught driving the stolen vehicle, was "not some stranger. It's not a hitchhiker. It's her husband." Ortiz opted not to present any evidence and renewed her motion to strike. The trial court denied Ortiz's motion and found her guilty of receiving stolen property.

Ortiz appealed her conviction to the Court of Appeals, arguing that the evidence presented at trial was insufficient to prove she possessed the stolen vehicle. In an unpublished opinion, a three-judge panel of the Court of Appeals reversed Ortiz's conviction for felony receiving stolen property, explaining that the Commonwealth failed to present evidence suggesting Ortiz exercised dominion and control over the stolen vehicle during the time she

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<sup>3</sup> The trial court took judicial notice of the fact that Thanksgiving was seven days before December 1, 2022, when Ortiz was arrested.

knew it was stolen. *Ortiz v. Commonwealth*, No. 1918-23-1, 2025 Va. App. LEXIS 359, at \*2 (2025). Additionally, the Court of Appeals determined that the Commonwealth improperly relied on Ortiz’s “status as the wife of the driver of the stolen vehicle and that she knew the few passengers who were driven in the car by her husband” to establish dominion and control. *Id.* It concluded that “while Ortiz also may have had a relationship with [Whitaker’s] girlfriend and the unidentified male, the Commonwealth failed to establish that Ortiz exercised control over the use of [the] stolen vehicle in transporting these friends.” *Id.* at 12-13.

On appeal to this Court, the Commonwealth argues that the Court of Appeals erred because it failed to view the evidence in the light most favorable to the prevailing party below. The Commonwealth contends that the evidence presented at trial establishes that Ortiz exercised dominion and control over the stolen car. It points out that the trial court could have inferred that Ortiz knew the car was stolen when she directed Whitaker to take her girlfriend to work on December 1, 2022.

When presented with a challenge to the sufficiency of the evidence in a criminal case, the Court reviews the evidence “in the ‘light most favorable’ to the Commonwealth.” *Bowman v. Commonwealth*, 290 Va. 492, 494 (2015) (quoting *Commonwealth v. Hudson*, 265 Va. 505, 514 (2003)). “Viewing the record through this evidentiary prism requires [the Court] to ‘discard the evidence of the accused in conflict with that of the Commonwealth, and regard as true all the credible evidence favorable to the Commonwealth and all fair inferences to be drawn therefrom.’” *Id.* (quoting *Kelley v. Commonwealth*, 289 Va. 463, 467-68 (2015)).

Here, it is apparent that the Court of Appeals failed to view the evidence in the light most favorable to the Commonwealth. During her interrogation, Ortiz confirmed that it was *her* girlfriend that Whitaker drove to work on December 1, 2022. In overturning Ortiz’s conviction,

however, the Court of Appeals incorrectly identified the girlfriend as Whitaker's girlfriend. By recharacterizing who had the relationship with the girlfriend, the Court of Appeals severed the evidentiary link establishing that Ortiz exercised dominion and control over the vehicle after she knew it was stolen by directing Whitaker to take her girlfriend to work. *See Williams v. Commonwealth*, 56 Va. App. 638, 645-46 (2010) (holding that circumstantial evidence indicating that the passenger directed the movement or destination of the vehicle is sufficient to demonstrate dominion and control). As Sergeant Laino's follow-up question unequivocally established that it was Ortiz's girlfriend, the Court of Appeals' contrary conclusion was clearly erroneous.

The Court also notes that Whitaker stopped on his trip to the shopping center to allow Ortiz to use the restroom. The logical implication from this is that Ortiz requested that Whitaker stop, which is circumstantial evidence that she directed the movement of the vehicle in some capacity. This further demonstrates that Ortiz had some level of dominion or control over the vehicle after she knew it was stolen. Accordingly, the Court of Appeals' decision that the evidence was insufficient to support a conviction for possession of stolen property is erroneous and, therefore, reversed.

This order shall be certified to the Court of Appeals of Virginia and the Circuit Court of the City of Virginia Beach.

A Copy,

Teste:

  
Clerk