

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

RICHARD F. STOKES  
JUDGE

1 THE CIRCLE, SUITE 2  
SUSSEX COUNTY COURTHOUSE  
GEORGETOWN, DE 19947

January 31, 2008

Tasha Marie Stevens, Esquire  
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RE: James E. McKinney v. State of Delaware, Def. ID# 0704007348

DATE SUBMITTED: December 12, 2007

Dear Counsel:

Pending before the Court is an appeal which defendant James E. McKinney has brought attacking the finding of the Court of Common Pleas (“CCP”) that he committed the crime of hindering prosecution in violation of 11 Del. C. § 1244.<sup>1</sup> This is my decision affirming the

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<sup>1</sup>In 11 Del. C. § 1244, it is provided in pertinent part as follows:

(a) A person is guilty of hindering prosecution when, with intent to prevent, hinder or delay the discovery or apprehension of, or the lodging of a criminal charge against, a person whom the person accused of hindering prosecution knows has committed acts constituting a crime, or is being sought by law-enforcement officers for the commission of a crime, the person accused of hindering prosecution:

- (1) Harbors or conceals the person; or
- (2) Warns the person of impending discovery or apprehension; or
- (3) Provides the person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or

decision of the Court below.

A non-jury trial was held in CCP on June 26, 2007.

Testifying for the State of Delaware (“the State”) was Delaware State Trooper Matthew Long, the arresting officer. A summary of his testimony follows.

On April 6, 2007, at around midnight, he, Corporal Reynolds, and several other units went to 35480 East Harbor Drive, Millsboro, Sussex County, Delaware, to follow up on information that Steven Angel, who was wanted, was located there. They observed some movement in the window and it appeared “multiple subjects were moving around in the residence.” June 26, 2006 Trial Transcript at 5 (“T.T. at \_\_”). They checked to verify no one was fleeing out the back door. Officer Long then knocked on the front door of the residence and the defendant answered the door. The officer did not know defendant, so he asked defendant if he was Steven Angel. The defendant replied yes. The officer had defendant step outside the residence, and he referred to defendant as Steven Angel. According to the officer:

I told Mr. Angel, and the defendant responding to his name, to put his hands

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(4) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of the person or in the lodging of a criminal charge against the person; or

(5) Suppresses, by an act of concealment, alteration or destruction, any physical evidence which might aid in the discovery or apprehension of the person or in the lodging of a criminal charge against the person; or

(6) Aids the person to protect or profit expeditiously from an advantage derived from the person's crime.

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(c) Hindering prosecution is a class A misdemeanor if the person commits any of the acts set forth in subsection (a) of this section with intent to prevent, hinder or delay the discovery or apprehension of, or the lodging of a criminal charge against, a person whom that person knows committed acts constituting a crime other than a felony, or is being sought by law-enforcement officers for the commission of a crime other than a felony.

behind his back because he was under arrest for warrants that we had issued there were in NCIC. At that time he did so.

T.T. at 9. Defendant asked for what he was being arrested. The officer told him that if they could go inside, he would explain what was going on. Defendant and the officers then went inside where the officer informed defendant of Steven Angel's charges. At that point in time, defendant notified the officer that he was not Steven Angel. They then determined whom defendant actually was. Defendant initially stated that Steven Angel was not in the residence. Defendant authorized a search of his premises and ultimately, Steven Angel, who was hiding behind a bed, was found and arrested. After the officers found him, defendant then explained that Steven Angel had been living at the residence for some time.

Defendant testified on his own behalf. He testified as follows. He is hard of hearing and he did not hear the officer state the name "Steven Angel". Once he heard the name "Steven Angel", while they were outside the residence, he identified himself to the officer and told him he had proper identification inside the house. Steven Angel had been staying at his home since November of 2006. Steven Angel had told defendant that he had problems in Ohio and defendant first learned Steven Angel had "[w]arrants of this nature when the cops came." T.T. at 20. Defendant acknowledged there were six or seven police officers at his door. He also testified that he "thought they were going to break the door down as hard as they knocked." T.T. at 22.

The State argued that by identifying himself as Steven Angel, defendant showed an intent to hinder or delay the officers from finding the wanted person in violation of 11 Del. C. § 1244(a)(4).

The Court below ruled as follows:

The question that the evidence presents to the Court is whether or not the State has met its burden of proof beyond a reasonable doubt as to the intent element here. And, also there are actually two elements of mens rea in this offense: intent, and knowing. The defendant has to intentionally commit the act of hindering, and when doing so he has to be in possession of knowledge that the person that supposedly is being harbored, or concealed in some fashion has committed a crime, or is being sought by a law enforcement officer for the commission of a crime.

I found the officer's testimony as to his interaction with the defendant very credible. It does not appear to the Court that the defendant would have responded as he did to the officer's verbal commands if he was unable to hear them, and the officer did not give any testimony indicating the defendant had any trouble following any of his instructions to step outside the house, or anything else, or in being cuffed.

It does appear to the Court that the defendant, and I think the State has met its burden beyond a reasonable doubt in proving that the defendant knew that Mr. Angel was wanted for the commission of a crime based on the fact that there were a lot of policemen outside asking about Mr. Angel obviously there at the door.

After evaluating the credibility of the evidence I do not find that the defendant's testimony raises any reasonable doubt, and I believe, the State has met its burden of proof beyond a reasonable doubt as to this matter in viewing the evidence, and the totality of the circumstances, so I do find the defendant guilty of hindering prosecution.

T.T. at 30-31.

On appeal, defendant argues there was insufficient evidence to support the finding that defendant possessed the requisite knowledge that Steven Angel was being sought for the commission of a crime.

As the Court recently explained in State v. Godwin, Del. Super., Def. ID# 0410015738, Vaughn, P.J. (July 24, 2007) at 5-6:

When addressing appeals from the Court of Common Pleas, this Court sits as an intermediate appellate court. <sup>Fn 2</sup> As such, its function is the same as that of the Supreme Court. <sup>Fn 3</sup> The court's role is to "correct errors of law and to review the factual findings of the Court below to determine if they are 'sufficiently supported by the record and are the product of an orderly and logical deductive process.'" <sup>fn 4</sup> If substantial evidence exists for a finding of fact, this court must accept that ruling. It must not make its own factual conclusions, weigh evidence or make

credibility determinations. <sup>fn5</sup> Errors of law are reviewed de novo. <sup>fn 6</sup> Findings of fact are reviewed only to verify that they are supported by substantial evidence. <sup>Fn 7</sup> The standard of review when considering the sufficiency of the evidence on an appeal is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. <sup>Fn 8</sup>

----- Footnotes -----

2 State v. Richards, 1998 Del. Super. LEXIS 454.

3 Baker v. Connell, 488 A.2d 1303 (Del. 1985).

4 State v. Huss, 1993 Del. Super. LEXIS 481, at \*2 (citing Levitt v. Bouvier, 287 A.2d 671, 673 (Del. 1972)).

5 Johnson v. Chrysler, 59 Del. 48, 213 A.2d 64, 9 Storey 48 (Del. 1965).

6 Downs v. State, 570 A.2d 1142, 1144 (Del. 1990).

7 Shahan v. Landing, 643 A.2d 1357 (Del. 1994).

8 Dixon v. State, 567 A.2d 854, 857 (Del. 1989); Davis v. State, 453 A.2d 802, 803 (Del. 1982); see Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979).

The standard of review is the same, whether the evidence presented was direct or circumstantial.

Anderson v. State, 930 A.2d 898, 901 (Del. 2007). Accord Fitzcharles v. State, Del. Super.,

Crim. A. Nos. 94-03-0794 - 0796, Graves, J. (Aug. 12, 1994) at 12-13.

The State used circumstantial evidence to show defendant's knowledge that Steven Angel was wanted for a crime. The presence of six or seven police officers banging on the door in the middle of the night asking for Steven Angel and then defendant's misidentifying himself as Steven Angel was the evidence the Court below accepted to find defendant knew Steven Angel was wanted.<sup>2</sup> That constituted substantial and sufficient evidence to prove that defendant knew

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<sup>2</sup>The State actually relied upon other evidence, specifically, that defendant allowed himself to be handcuffed and taken into custody as Steven Angel. However, the Court below did not address that evidence in making its ruling.

Steven Angel was wanted.

Thus, for the foregoing reasons, this Court affirms the findings of the Court below.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

cc: Prothonotary's Office  
Court of Common Pleas, Clerk's Office  
The Honorable Kenneth S. Clark, Jr.