



Anthony Wayne Chaconas v. Commonwealth of Virginia

2017 | Cited 0 times | Court of Appeals of Virginia | August 22, 2017

COURT OF APPEALS OF VIRGINIA

Present: Judges AtLee, Malveaux and Senior Judge Annunziata Argued at Fredericksburg, Virginia

ANTHONY WAYNE CHACONAS MEMORANDUM OPINION * BY v. Record No. 1137-16-4
JUDGE RICHARD Y. ATLEE, JR. AUGUST 22, 2017 COMMONWEALTH OF VIRGINIA

FROM THE CIRCUIT COURT OF LOUDOUN COUNTY Burke F. McCahill, Judge

Thomas S. Rock (The Law Office of Thomas S. Rock, PLLC, on brief), for appellant.

Donald E. Jeffrey, III, Senior Assistant Attorney General (Mark R. Herring, Attorney General, on brief), for appellee.

A jury in the Circuit Court of Loudoun County

Anthony Wayne Chaconas of credit card theft, credit card fraud, and identity fraud. The jury recommended, and the trial court imposed, five years in prison for each conviction, yielding a total active sentence of fifteen years. On appeal, Chaconas argues that the trial court erred in in limine and admitting evidence of prior crimes

or bad acts. For the following reasons, we disagree and affirm.

I. BACKGROUND

charges and convictions arose from the theft of a credit card from a purse left unattended in a parked vehicle. That credit card was later used at a Best Buy store to purchase a laptop computer.

* Pursuant to Code § 17.1-413, this opinion is not designated for publication. UNPUBLISHED Prior



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to trial, the Commonwealth filed a motion in limine

permission to offer modus operandi evidence to prove identity under Virginia Rule of Evidence

2:404(b). The Commonwealth proffered that two witnesses, Angela Shrewsbury and Angela

Robertson, would each testify to participating in a scheme wherein Chaconas stole credit cards

from purses left in unlocked vehicles and created fake hospital name badges bearing the names

of the credit card holders. He then provided nurse

stolen credit card to someone (for the instant offense, Shrewsbury) who used the stolen card to

purchase electronics. Chaconas argued refer to inadmissible

prior crimes or bad acts, as she could only testify to participating in this scheme on prior

occasions not charged in the indictment. The trial court granted the motion

and ruled the testimony admissible as modus operandi evidence relevant to proving the identity

of the perpetrator.

At trial, Shrewsbury testified that she participated in the crimes charged in the

indictment. She stated that she received a credit card from Chaconas and, at his request, used it

to purchase an Apple computer at Best Buy. While making the purchase, s

scrubs and an identification badge bearing her picture and the name from the stolen credit card,

all provided by Chaconas. Shrewsbury identified herself in a surveillance photograph from the

Best Buy store. Chaconas paid Shrewsbury after she gave him the computer.

Robertson testified after Shrewsbury.

than the offense for

the



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and cannot follow

it to either question. Robertson then testified that in the weeks before the instant offenses, she drove Chaconas

to various locations, such as school athletic field parking lots. She acted as a

Chaconas broke into parked vehicles and stole credit cards from purses left in those vehicles.

She estimated she did this about five times. Robertson stated Chaconas then made a false

hospital identification badge, using a printer and laminator in the vehicle, to match the name on

the credit card. Using the recently-stolen card and fake identification, someone then purchased

computer equipment. Robertson testified she was present on at least one occasion when

Shrewsbury uniform and false identification badge Chaconas provided,

participated in this scheme.

II. ANALYSIS

Generally, evidence that shows or tends to show that the accused committed other

crimes is not admissible for the purpose of proving that the accused committed the crime

charged. However, evidence of prior crimes may be admissible if it tends to prove any relevant

fact of the offense charged. *Berry v. Commonwealth*, 22 Va. App. 209, 212, 468 S.E.2d 685,

686-87 (1996) (citation omitted); Va. R. Evid. 2:404(b).

s identity, or criminal agency, where

Spencer v. Commonwealth, 240 Va. 78, 89, 393 S.E.2d 609, 616

(1990). Evidence of sim

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Hewston v.

Commonwealth, 18 Va. App. 409, 412-13, 444 S.E.2d 267, 269 (1994) (quoting Spencer, 240

Va. at 90, 393 S.E.2d at 616). hrewsbury lied in order to shift the blame for

her own criminal actions onto Chaconas. 1

crimes or bad acts was

description of the instant offenses and role in them. Both Shrewsbury

and Robertson testified that Chaconas stole the credit cards from purses left in parked vehicles

and made false identification badges bearing the names of the owners of the stolen credit cards.

They each testified that Chaconas kept equipment to make the false identification badges in the

vehicle. They both described how Chaconas provided Shr a

forged hospital identification to purchase a computer using the stolen credit card. Although

Robertson was not present during the crime at issue here, she testified to her, , and

role in remarkably similar acts (a point Chaconas does not debate) that took place

in the weeks before these offenses. prior conduct bore a singular strong resemblance to the pattern of the offense[s]

charged was admissible as proof of modus operandi. See Spencer, 240 Va. at 90, 393

S.E.2d at 616. 2

1 Chaconas argues that ident , but rather . However, as our Supreme Court has noted, agency whether he in fact committed the offense which unquestionably is a relevant (if not the most relevant) fact in a criminal case. See Spencer, 240 Va. at 89, 393 S.E.2d at 616. 2 more prejudicial than probative. See Va. R. Evid. 2:403. Though ordinarily a pertinent inquiry, this argument was not presented on appeal; in fact, Chaconas expressly disclaimed on brief that this was at issue before this Court. See . 9. To the extent Chaconas argues that Robertson testimony, we disagree. instead , see Ward v. Commonwealth, 264 Va. 648, 653, 570 S.E.2d 827, 831 (2002), which was particularly relevant given that the defense strategy entailed underm Furthermore, the trial court repeatedly admonished



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the jury to consider the challenged

testimony solely nsidered the evidence

accordingly. LeVasseur v. Commonwealth, 225 Va. 564, 589, 304 S.E.2d 644, 657 (1983)

cautionary

III. CONCLUSION

in limine, permitting

testimony regarding Chacona . Accordingly, we affirm.

Affirmed.

