

COURT OF APPEALS OF VIRGINIA

Record No. 1998-24-1

TIGER DIAZ, SOMETIMES KNOWN AS
TIGER TASNDAY DIAZ

v.

COMMONWEALTH OF VIRGINIA

Present: Judges Beales, White and Duffan

Argued at Norfolk, Virginia

Opinion Issued September 15, 2026*

FROM THE CIRCUIT COURT OF THE CITY OF HAMPTON

Bonnie L. Jones, Judge

Charles E. Haden for appellant.

Justin B. Hill, Assistant Attorney General (Jason S. Miyares,¹ Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY JUDGE KIMBERLEY SLAYTON WHITE

Following a bench trial, the trial court convicted Tiger Tasnday Diaz of contempt for failing to obey a court order and sentenced him to 10 days' incarceration. The court then found Diaz had violated his previously suspended sentences and revoked them. On appeal, Diaz argues that the trial court erred when it denied his motion to strike. Finding no error, we affirm the trial court's judgment.

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

¹ Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

BACKGROUND

We recite the facts “in the ‘light most favorable’ to the Commonwealth, the prevailing party in the trial court.” *Hammer v. Commonwealth*, 74 Va. App. 225, 231 (2022) (quoting *Commonwealth v. Cady*, 300 Va. 325, 329 (2021)). In doing so, we discard any evidence that conflicts with the Commonwealth’s evidence, and regard as true all the credible evidence favorable to the Commonwealth and all inferences that can be fairly drawn from that evidence. *Cady*, 300 Va. at 329.

In September 2023, animal control officers went to Diaz’s residence in response to an animal cruelty complaint. Officers found a deceased dog, three cats, and “no evidence that anybody had been caring for the animals.” The officers seized the cats and petitioned the general district court to impound and rehome the animals. The general district court found that the animals had been mistreated and granted the impoundment petition. The court’s impoundment order prohibited Diaz “from owning or possessing any other companion animals.” Officers personally served Diaz with a copy of the order in September 2023 and in October 2023. On both occasions, officers explained to Diaz that he was prohibited from owning or possessing animals.

Based on the same evidence, in November 2023, the general district court convicted Diaz of two counts of animal cruelty and sentenced him to 30 days’ incarceration, with 28 days suspended on each charge. The court ordered Diaz to be of good behavior.

In March 2024, Animal Control Officer Leslie Brazil went to a Hampton residence to investigate a complaint. Diaz, who was at the residence, acknowledged that he lived at the address. In conversation with Brazil, Diaz asserted that he was not prohibited from owning or possessing animals and claimed that “the judge had encouraged him to . . . try and retrieve his animals from the shelter.” Brazil told Diaz that he could not own or possess a companion

animal. While Brazil was speaking with Diaz, a two-month-old pit bull puppy was observed in the home. Diaz claimed that “he had bought the puppy” for his girlfriend.

After the discovery of the puppy at Diaz’s residence, the general district court issued show cause orders to Diaz for contempt of court for violating the September 2023 impoundment order and for violating the terms of the previously suspended animal cruelty sentences imposed in November 2023. The general district court convicted Diaz of the contempt charge and found him in violation of the conditions of suspended sentences imposed on the criminal charges. For contempt, the general district court imposed a 30-day sentence. On the violation, the general district court revoked and imposed the previously suspended sentences. Diaz appealed his convictions to the Circuit Court of the City of Hampton.

At the combined trial and revocation hearing, Officer Brazil testified to the above facts. The Commonwealth introduced the 2023 impoundment order which prohibited Diaz from owning or possessing companion animals. At the conclusion of the Commonwealth’s evidence, Diaz moved to strike the charges, which the trial court denied.

Diaz testified that his girlfriend owned the dog and denied owning, possessing, or caring for it. He acknowledged, however, that he lived part-time at the home with the dog. He argued that he merely gave his girlfriend money to buy the dog and that he never owned or possessed the dog himself.

The trial court found that Diaz “admitted that he did buy the animal” and that he lived “part-time in the house with the animal.” The court was “satisfied with the evidence” and convicted Diaz of contempt and sentenced him to 10 days’ incarceration. It also found that Diaz had violated the terms of his previously suspended sentences and revoked them. Diaz appeals, arguing that he did not intentionally violate the court’s impoundment order and that he did not

own or possess the dog. He also argues that since he did not violate the impoundment order, he did not violate the good behavior condition of his previously suspended sentences.

ANALYSIS

I. Diaz’s intent argument is waived under Rule 5A:18.

“No ruling of the trial court . . . will be considered as a basis for reversal unless an objection was stated with reasonable certainty at the time of the ruling, except for good cause shown or to enable this Court to attain the ends of justice.” Rule 5A:18. “Specificity and timeliness undergird the contemporaneous-objection rule[and] animate its highly practical purpose.” *Bethea v. Commonwealth*, 297 Va. 730, 743 (2019); *Brown v. Commonwealth*, 279 Va. 210, 217 (2010). “[M]aking one specific argument on an issue does not preserve a separate legal point on the same issue for [appellate] review.” *Hicks v. Commonwealth*, 71 Va. App. 255, 266 (2019) (second alteration in original) (quoting *Johnson v. Commonwealth*, 58 Va. App. 625, 637 (2011)). See *Ray v. Commonwealth*, 74 Va. App. 291, 306-07 (2022).

On appeal, Diaz argues that he did not intentionally violate the September 2023 impoundment order prohibiting him from possessing or owning companion animals. He claims that he was merely mistaken about the 2023 order’s meaning. Diaz did not make these arguments in the trial court. Thus, they are waived. Although Rule 5A:18 contains exceptions for good cause or to meet the ends of justice, Diaz has not invoked either exception, and we do not consider them *sua sponte*. *Spanos v. Taylor*, 76 Va. App. 810, 827-28 (2023).

II. The trial court did not err when it denied Diaz’s motion to strike.

“When an appellate court reviews the sufficiency of the evidence underlying a criminal conviction, its role is a limited one.” *Commonwealth v. Garrick*, 303 Va. 176, 182 (2024). “The judgment of the trial court is presumed correct and will not be disturbed unless it is ‘plainly wrong or without evidence to support it.’” *Pijor v. Commonwealth*, 294 Va. 502, 512 (2017) (quoting

Code § 8.01-680). “Thus, ‘it is not for this [C]ourt to say that the evidence does or does not establish [the defendant’s] guilt beyond a reasonable doubt because as an original proposition it might have reached a different conclusion.’” *Commonwealth v. Barney*, 302 Va. 84, 97 (2023) (alterations in original) (quoting *Cobb v. Commonwealth*, 152 Va. 941, 953 (1929)).

The only relevant question for this Court on review “is, after reviewing the evidence in the light most favorable to the prosecution, whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Id.* (quoting *Sullivan v. Commonwealth*, 280 Va. 672, 676 (2010)). “If there is evidentiary support for the conviction, ‘the reviewing court is not permitted to substitute its own judgment, even if its opinion might differ from the conclusions reached by the finder of fact at the trial.’” *McGowan v. Commonwealth*, 72 Va. App. 513, 521 (2020) (quoting *Chavez v. Commonwealth*, 69 Va. App. 149, 161 (2018)).

“Determining the credibility of witnesses . . . is within the exclusive province of the [fact finder], which has the unique opportunity to observe the demeanor of the witnesses as they testify.” *Welch v. Commonwealth*, 79 Va. App. 760, 767 (2024) (alterations in original) (quoting *Dalton v. Commonwealth*, 64 Va. App. 512, 526 (2015)). When the fact finder has resolved credibility issues in the Commonwealth’s favor, “those findings will not be disturbed on appeal unless plainly wrong.” *Id.* (quoting *Towler v. Commonwealth*, 59 Va. App. 284, 291 (2011)). “In a bench trial, the trial judge’s ‘major role is the determination of fact.’” *Blankenship v. Commonwealth*, 71 Va. App. 608, 619 (2020) (quoting *Haskins v. Commonwealth*, 44 Va. App. 1, 11 (2004)). “The trier of fact is not required to accept a party’s evidence in its entirety, but is free to believe or disbelieve, in whole or in part, the testimony of any witness.” *English v. Commonwealth*, 43 Va. App. 370, 371 (2004) (citations omitted). Consequently, a reviewing court “must accept” the fact finder’s credibility determinations unless the witness’s testimony is inherently incredible. *Lambert v. Commonwealth*, 70 Va. App. 740, 759 (2019).

A court “may issue attachments for contempt, and punish them summarily” for “[d]isobedience or resistance of an officer of the court, juror, witness, or other person to any lawful process, judgment, decree, or order of the court.” Code § 18.2-456(A)(5). “[B]efore a person may be held in contempt for violating a court order, the order must be in definite terms as to the duties thereby imposed upon him and the command must be expressed rather than implied.” *DRHI, Inc. v. Hanback*, 288 Va. 249, 255 (2014) (alteration in original) (quoting *Petrosinelli v. People for Ethical Treatment of Animals, Inc.*, 273 Va. 700, 707 (2007)).

In Virginia, all dogs and cats are “deemed personal property.” Code § 3.2-6585. Further, “possession of personal property is presumptive proof of ownership because individuals generally own the personal property that they possess.” *Maine v. Adams*, 277 Va. 230, 238-39 (2009). Additionally, we have previously recognized that possession “may be joint or several” and that two or more people “may be in possession where each has the power of control and intends to exercise control jointly.” *Smallwood v. Commonwealth*, 278 Va. 625, 631 (2009) (quoting *Burnette v. Commonwealth*, 194 Va. 785, 792 (1953)).

Diaz argues that he did not own or possess the puppy. He contends that he gave his girlfriend money to purchase the dog and that he only lived with the dog part-time. He claims that the 2023 impoundment order did not prohibit those acts. Thus, he reasons, the evidence was insufficient to prove he violated the 2023 impoundment order. Additionally, because he did not violate the impoundment order, he asserts that he did not violate the good behavior condition of his previously suspended sentences. We disagree.

The evidence established that Diaz willfully defied the impoundment order. On two separate occasions, animal control officers provided Diaz with a copy of the 2023 impoundment order. The order stated that Diaz was prohibited “from owning or possessing any other companion animals.” During each meeting, officers expressly told him that he was not allowed to own or

possess any animals. Thus, a rational fact finder could conclude that Diaz knew he was not supposed to have a companion animal and that he actually did possess a companion animal.

Just months after the impoundment order had been served on him personally, animal control officers found a puppy at Diaz's home. Initially Diaz told officers that he bought the dog for his girlfriend but later, at trial, claimed that he only gave his girlfriend the money to buy the puppy. "In its role of judging witness credibility, the fact finder is entitled to disbelieve the self-serving testimony of the accused and to conclude that the accused is lying to conceal his guilt." *Flanagan v. Commonwealth*, 58 Va. App. 681, 702 (2011) (quoting *Marable v. Commonwealth*, 27 Va. App. 505, 509-10 (1998)). Here, the trial court specifically found that Diaz bought the dog. Given the circumstances, the trial court could conclude that Diaz owned or possessed the dog he bought and had in his home. Thus, the trial court did not err when it denied Diaz's motion to strike the contempt charge.

III. The trial court did not err when it revoked Diaz's previously suspended sentences.

As relevant here, "in any case in which the court has suspended the execution or imposition of sentence, the court may revoke the suspension of sentence for any cause the court deems sufficient that occurred at any time within the probation period, or within the period of suspension fixed by the court." Code § 19.2-306(A). "If the court, after hearing, finds good cause to believe that the defendant has violated the terms of suspension, then the court may revoke the suspension and impose a sentence in accordance with the provisions of § 19.2-306.1." Code § 19.2-306(C). "If the court finds the basis of a violation of the terms and conditions of a suspended sentence or probation is that the defendant was convicted of a criminal offense," the court may "revoke the suspension and impose or resuspend any or all of that period previously suspended." Code § 19.2-306.1(B). "By committing new crimes, the defendant violated the long[-]established implicit condition of good behavior." *Burnham v. Commonwealth*, 298 Va. 109, 117 (2019). With the

contempt conviction, Diaz violated the good behavior condition of his previously suspended sentences. Thus, the trial court did not err by revoking Diaz's previously suspended sentences and requiring that he actually serve those sentences.

CONCLUSION

For the foregoing reasons, the trial court's judgment is affirmed.

Affirmed.