

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Millwood, 2014 ONCA 649

DATE: 20140922

DOCKET: C56110

Simmons, Rouleau and Hourigan JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Leighton Millwood

Applicant/Appellant

Martin Kerbel, Q.C., for the appellant

Michael Perlin, for the respondent

Heard: September 19, 2014

On appeal from the conviction entered on September 10, 2012 by Justice Peter H. Wilkie of the Ontario Court of Justice.

APPEAL BOOK ENDORSEMENT

[1] The sole issue at trial was whether the appellant knew the vehicles were stolen. The trial judge rejected the appellant's evidence at trial that he did not know the vehicles were stolen based on a finding that the appellant was not a credible witness. In doing so, he identified numerous inconsistencies in the

appellant's evidence. The appellant submits the credibility finding was unreasonable.

[2] We disagree. On our view of the record the finding was open to the trial judge to make.

[3] The appellant also challenges the propriety of the trial judge's statement that he found the explanations that the appellant gave to the police at the time he was arrested "could not reasonably be true". He contends that use of this terminology reversed the burden of proof.

[4] We do not accept this submission. The impugned statement related to whether the doctrine of recent possession could apply. In any event, on our review of the trial judge's reasons, he went on to make a finding of guilt without relying on the doctrine of recent possession.

[5] The appeal is therefore dismissed.