

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

1299

**KA 15-01820**

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, DEJOSEPH, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOAN A. GLIWSKI, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ERIN A. KULESUS OF COUNSEL), FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (SHIRLEY A. GORMAN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Genesee County Court (Robert C. Noonan, J.), rendered April 30, 2015. The judgment convicted defendant, upon a jury verdict, of criminal possession of stolen property in the third degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: On appeal from a judgment convicting her upon a jury verdict of criminal possession of stolen property in the third degree (Penal Law § 165.50), defendant contends that County Court erred in admitting evidence of her affair with a codefendant. Contrary to the People's contention, the issue is preserved for our review inasmuch as the court expressly decided the issue in its written decision (see *People v Jackson*, 29 NY3d 18, 23 [2017]). We conclude, however, that the court did not err. It is well settled that "evidence of uncharged crimes is inadmissible where its purpose is only to show a defendant's bad character or propensity towards crime" (*People v Morris*, 21 NY3d 588, 594 [2013]). However, motive is a "well-recognized, nonpropensity purpose[] for which uncharged crimes may be relevant" (*id.*). Here, defendant's adultery was an uncharged crime (see § 255.17), and it was admissible to show defendant's motive to store merchandise that her codefendant had stolen from his FedEx truck instead of delivering it to various outlet stores (see *Morris*, 21 NY3d at 594).

Contrary to defendant's contention, we conclude that the evidence, viewed in the light most favorable to the People (see *People v Contes*, 60 NY2d 620, 621 [1983]), is legally sufficient to support the conviction, i.e., there is a "valid line of reasoning and permissible inferences which could lead a rational person to the conclusion reached by the jury on the basis of the evidence at trial"

(*People v Bleakley*, 69 NY2d 490, 495 [1987]). The jury was entitled to infer that the value of the stolen property exceeded \$3,000, inasmuch as defendant admitted to the police that she possessed at least 20 leather jackets and the undisputed testimony established that the total value of the jackets was at least \$3,600. With respect to knowledge, her codefendants' testimony that defendant knew the goods to be stolen was corroborated by, among other things, her own admissions to the police (see *People v Reome*, 15 NY3d 188, 191-192 [2010]). Viewing the evidence in light of the elements of the crime as charged to the jury (see *People v Danielson*, 9 NY3d 342, 349 [2007]), we further conclude that the verdict is not against the weight of the evidence (see generally *Bleakley*, 69 NY2d at 495).

Finally, the record, viewed as a whole, demonstrates that defense counsel provided meaningful representation (see generally *People v Baldi*, 54 NY2d 137, 147 [1981]).