
Kentucky Court of Appeals

No. 2025-CA-1098, -1103

Electronically Filed

STEPHEN EUGENE LAWSON

Appellant

v.

On Appeal from
Nelson Circuit Court,
No. 23-CR-0165, -0371

COMMONWEALTH OF KENTUCKY

Appellee

BRIEF FOR THE COMMONWEALTH OF KENTUCKY

RUSSELL COLEMAN

Attorney General of Kentucky

JOHN H. HEYBURN (No. 100756)

Principal Deputy Solicitor General

SHAWN D. CHAPMAN (No. 89499)

Deputy Solicitor General

Office of the Attorney General

1024 Capital Center Drive, Suite 200

Frankfort, Kentucky 40601

Jack.Heyburn@ky.gov

ShawnD.Chapman@ky.gov

(502) 696-5300

Counsel for the Commonwealth of Kentucky

Certificate of Service

I certify that on July 23, 2026, I electronically filed this brief in the Office of the Clerk of the Court of Appeals and I served, via U.S. mail: Hon. Travis Bewley, Department of Public Advocacy, 5 Mill Creek Park, Section 100, Frankfort, Kentucky 40601; Hon. Shane Young, Commonwealth's Attorney, 54 Public Square, Elizabethtown, Kentucky 42702; Hon. Charles C. Simms, Chief Circuit Judge, Nelson County Justice Center, 200 Nelson County Plaza, Bardstown, Kentucky 40004. I further certify that the record was returned prior to filing this brief.

/s/ John H. Heyburn

INTRODUCTION

Crystal Rogers vanished on the night of July 3, 2015, leaving behind five children and a life she had every reason to keep living. She has never been found. The Commonwealth proved at trial that Steve Lawson played a key role in facilitating her murder—not as a bystander who unknowingly stumbled into the crime, but as a man who knew Brooks Houck wanted Crystal “gone,” understood that “gone” meant dead, and agreed to help in exchange for a steady supply of Brooks’s contracting work.

Steve didn’t just agree to help—he delivered. When Brooks asked him to identify someone who would kill Crystal, Steve gave him a name. When Brooks asked him to move Crystal’s car, Steve said, “Yes sir,” and drove his son Joey to pick it up. And when the plan nearly came apart—Joey stranded on the Bluegrass Parkway with a flat tire and Crystal’s car—Steve drove out to salvage it, pulled the driver’s seat forward so it would look like Crystal had been the last one behind the wheel, and called Brooks to say that the job was done.

Steve was convicted of tampering with physical evidence and conspiracy to commit murder and sentenced to 17 years in prison. This Court should affirm.

STATEMENT CONCERNING ORAL ARGUMENT

Although the flaws in Steve Lawson’s claims are readily apparent from the record, the Commonwealth requests oral argument given the length of the trial and the extensive record.

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COUNTERSTATEMENT OF THE CASE

The Commonwealth does not accept Appellant's statement of the case. RAP 32(B)(3).

A. Crystal Rogers disappeared on July 3, 2015.

Crystal Rogers and Brooks Houck began dating in 2010 or 2011. VR.5/27/2025, 2:16:45-2:17:30 (S. Ballard). They had a good relationship at first. *Id.* They moved in together and had a child—a boy named Eli. VR.5/27/2025, 2:16:45-2:18:15 (S. Ballard). Crystal also worked for Brooks, mostly helping with rental properties. VR.5/27/2025, 3:03:20-3:06:00 (Snow).¹ Crystal was not well off financially; the “modest income” she received from this work was “the sum total of the money she received monthly.” *Id.*

By the time Crystal disappeared, her relationship with Brooks had deteriorated. VR.5/27/2025, 2:19:10-2:20:10 (S. Ballard). Brooks had other girlfriends. *Id.* He could also be cruel to Crystal. *Id.* While skeet shooting, Brooks switched out the ammunition in Crystal's gun, causing the gun to kick powerfully toward Crystal and harming her. *Id.* Others witnessed “explosive encounters on job sites between the two of them.” VR.5/27/2025, 3:51:20-3:51:45 (Snow). Crystal wanted out of the relationship. VR.5/27/2025, 2:19:20-2:20:30 (S. Ballard).

¹ Detective Snow was the lead detective on the Crystal Rogers investigation when she disappeared in 2015. *Id.* at 2:43:30.

On the night Crystal disappeared (July 3, 2015), Brooks, Crystal, and Eli went to a farm owned by Brooks around 7:00 or 7:30 p.m. VR.5/27/2025, 3:01:10-3:02:00 (Snow). Brooks's mother, Rosemary Houck, lived at the farm. *Id.* Video evidence showed Brooks's truck leaving the farm just before midnight and then returning to Brooks's home. *Id.* at 3:15:00-3:17:45 (Snow). Investigators found "no credible information that [Crystal] ever made it home" that night. *Id.* at 4:40:30-4:40:50 (Snow).

The day after Crystal went missing, her mother, Sherry Ballard, tried unsuccessfully to contact her. VR.5/27/2025, 2:20:10-2:21:30 (S. Ballard). This was unusual, as Crystal always returned her mother's phone calls. *Id.* Sherry grew increasingly worried throughout the day. VR.5/27/2025, 2:21:30-2:23:40 (S. Ballard). She started to "panic" and began calling everyone who might know where Crystal was. *Id.*

Brooks did not share Sherry's concern about Crystal. On her way to file a missing-person report, Sherry saw Brooks at a gas station. VR.5/27/2025, 2:23:40-2:24:35 (S. Ballard). She pulled over and asked if he had seen or talked to Crystal. *Id.* He said no. *Id.* She then asked if they had gotten into a fight. *Id.* He said, "No. She gets in a little tizzy sometimes because she thinks I treat Eli differently than the other kids." *Id.*

At that point, Sherry noticed Eli in the back of the truck. VR.5/27/2025, 2:24:35-2:25:00 (S. Ballard). This worried Sherry, who testified, “I knew the instant I saw that baby in the truck that something was definitely wrong because my daughter never left that baby. Never.” *Id.* When asked if she ever saw Crystal without Eli after he was born, she responded, “No.” VR.5/27/2025, 2:25:00-2:25:20 (S. Ballard). One of Brooks’s employees also testified that she never saw Crystal without her baby. VR.5/28/2025, 10:28:00-10:29:10 (S. Cranmer).

Sherry searched for her daughter late into the night. VR.5/27/2025, 2:29:20-2:31:00 (S. Ballard). But she never saw or heard from Crystal again. *Id.*

B. Steve Lawson formed an agreement to help Brooks Houck murder Crystal.

Steve Lawson had known and worked for Brooks for 20 years. VR.5/27/2025, 4:21:20-4:23:00 (Steve, Sept. 2015 Grand Jury).² He did Bobcat, drywall, and framing work for him. *Id.* Steve said that he’s known Crystal and her family his whole life. *Id.* at 4:03:00-4:04:00 (Steve, Aug. 2015 Interview). But he had also said that he’d “seen Crystal one time” and “didn’t even know [Brooks] had a child with her until all this took place.” *Id.* at 4:08:00-4:08:30 (Steve, Aug. 2015 Interview).

² Steve testified live during his case in chief, but the Commonwealth also introduced some of his grand jury testimony (on September 16, 2015, May 10, 2023, June 14, 2023, and September 20, 2023) and statements he made in interviews with police investigators (on August 18, 2015, and August 6, 2020).

Brooks turned to Steve for help getting rid of Crystal. After an argument with Crystal, Brooks told Steve that “he wanted [Crystal] gone.” VR.5/28/2025, 3:45:10-3:46:15 (Steve, Sept. 2023 Grand Jury); VR.5/30/2025, 9:01:00-9:02:10 (Steve, Trial). Brooks said, “I just wish she was gone.” VR.5/30/2025, 9:01:00-9:02:10 (Steve, Trial). Steve responded, “You mean, gone gone?” *Id.* at 9:01:00-9:02:10 (Steve, Trial). Brooks said, “Yeah.” *Id.* And Steve responded, “Well, you’re saying you want her deceased.” *Id.*; *see also* VR.5/28/2025, 3:45:10-3:46:15 (Steve, Sept. 2023 Grand Jury).

Steve told Brooks that “he’s looking at the wrong person” to kill Crystal. VR.5/28/2025, 3:45:10-3:46:15 (Steve, Sept. 2023 Grand Jury). Brooks responded, “Can you point me in the direction?” *Id.* Steve obliged him. He said, “You got people that work for you like Mr. Charlie Girdley.” *Id.* When Steve told Charlie that he said this to Brooks, Charlie “giggled, like he thought it was funny.” *Id.*; *see also* VR.5/30/2025, 9:19:50-9:20:30 (Steve, Trial); VR.5/28/2025, 11:08:00-11:08:30 (Girdley).

Despite not killing Crystal himself, Steve agreed to facilitate her murder in other ways. Brooks “asked [Steve] would [he] help him move a car.” VR.5/28/2025, 3:43:55-3:45:00 (Steve, Sept. 2023 Grand Jury). Steve “told him, yes, sir.” *Id.* The car was “Crystal’s.” *Id.* In exchange, Brooks “promise[d]” Steve “every bit of his work” going forward. *Id.* at 3:52:35-3:53:00 (Steve, Sept. 2023 Grand Jury); *see also* VR.5/30/2025, 8:54:35-8:55:05 (Steve, Trial).

After Steve agreed to help Brooks, Brooks and Joey left to talk privately. When Joey came back, Steve recalled that “he had ... three or four hundred dollars in his hand.” VR.5/28/2025, 3:43:55-3:45:00 (Steve, Sept. 2023 Grand Jury). That was unusual, as work was “a little slow at that point in time.” *Id.*

C. Steve followed through on the agreement and helped promote and facilitate Crystal’s murder.

After work on July 3, Steve and Joey went out drinking at a bar in Bardstown. VR.5/28/2025, 3:46:15-3:46:45 (Steve, Sept. 2023 Grand Jury). By then, Brooks had already talked to him about taking care of Crystal’s car. *Id.* Charlie was also at the bar, and at some point, he and Joey left for “maybe an hour.” *Id.* at 3:46:45-3:47:15 (Steve, Sept. 2023 Grand Jury).

Charlie testified that he and Joey went to Brooks’s house. *Id.* at 11:08:50-11:09:35 (Girdley). When they did, “Brooks threw Joey a set of keys,” and Joey told Charlie that “he had to work on Crystal’s car.” *Id.* at 11:09:35-11:10:20 (Girdley). Joey returned to the bar without Charlie. VR.5/28/2025, 3:46:45-3:47:15 (Steve, Sept. 2023 Grand Jury).

Steve and Joey then left the bar “to pick up the car, Crystal’s car.” *Id.* Steve drove and let Joey out at the front of Brooks’s driveway. *Id.* at 3:47:50-3:48:30 (Steve, Sept. 2023 Grand Jury). Steve then went back to a friend’s farm that they frequented just north of Bardstown on Thompson Hill Road. *Id.*

Joey arrived at the farm on Thompson Hill Road ten minutes later. *Id.* at 3:48:30-3:49:00 (Steve, Sept. 2023 Grand Jury). Steve did not want the car to be there; he “had some words” with Joey and “said the effing car cannot stay on this man’s property.” *Id.* at 3:48:30-3:49:25 (Steve, Sept. 2023 Grand Jury). Joey left with the car. *Id.*

The plan may have been for Joey to “bury [the car] with a skid steer” so that “they’d never find it.” VR.5/28/2025, 11:08:30-11:08:50 (Girdley). But Joey got a flat tire at mile marker 14 on the Bluegrass Parkway. VR.5/27/2025, 2:49:05-2:56:00 (Snow). About an hour after Joey left, he called Steve and said, “You gotta come to the Bluegrass Parkway and pick me up.” VR.5/28/2025, 3:49:25-3:50:10 (Steve, Sept. 2023 Grand Jury).

Before he picked up Joey from the Bluegrass Parkway, Steve called Brooks. VR.5/28/2025, 3:51:00 (Steve, Sept. 2023 Grand Jury). As Steve testified, “I told him the car was moved.” *Id.* Steve told a grand jury that the “phone call was to tell Brooks [Crystal’s] car had been moved.” *Id.* at 3:41:50-3:42:40 (Steve, Sept. 2023 Grand Jury). Specifically, Steve told Brooks, “The job is done.” *Id.* Brooks responded, “Okay.” *Id.*

Steve started driving down the Bluegrass Parkway toward Elizabethtown. *Id.* He passed Joey and made a U-turn coming back toward Bardstown. *Id.* He approached the car and told Joey, “We gotta go.” *Id.*

Before leaving, Steve tried to make it look like Crystal had been driving the car. He told Joey, “Well, the seat’s back too far and you’ve been driving the car.” *Id.* at 3:50:10-3:50:15 (Steve, Sept. 2023 Grand Jury). So he “pulled the seat back up.” *Id.* Steve knew that “Crystal wasn’t a tall lady. She was short.” *Id.* at 3:50:15-3:50:30 (Steve, Sept. 2023 Grand Jury). And when asked whether he was “trying to fix it so it looked like Joey wasn’t driving,” Steve responded, “Yes sir.” *Id.*; *see also* VR.5/30/2025, 9:27:30-9:28:50 (Steve, Trial).

This testimony was consistent with cellular data analyzed by investigators. VR.5/28/2025, 1:14:30-1:33:00 (O’Daniel).³ Around midnight on July 3, Steve’s “phone move[d] from east to west in the area of the Bluegrass Parkway, near [Crystal’s] car, and then move[d] from west to east.” *Id.* at 1:34:00-1:34:30 (O’Daniel). The phone was back in Bardstown from approximately 1:08 a.m. to 3:00 a.m. *Id.* at 1:30:00-1:31:00 (O’Daniel). It then traveled north to the area near the farm on Thompson Hill Road, where it remained for several hours. *Id.*

Later, Steve discussed Crystal’s disappearance with Elizabeth Chesser. Elizabeth had a child with Steve’s son, Joey, and her mother, Rebecca, was married to Steve. VR.5/28/2025, 9:25:30-9:27:30 (Chesser). Steve told Elizabeth that “he was leaving [his previous wife] Tammy because she knew he had committed

³ Detective O’Daniel created the digital forensics unit at the Louisville Metro Police Department and analyzed call detail records relating to Crystal’s disappearance. *Id.* at 1:00:30-1:13:00.

murder and she was going to tell on him.” *Id.* at 9:29:45-9:30:10 (Chesser); *see also id.* at 10:21:00-10:21:50 (Chesser) (testifying that Steve’s “exact verbiage” was, “She knew I had committed murder and she was going to tell on me so I was leaving her”). He told her that “he had moved [Crystal’s] car.” *Id.* at 9:54:00-9:55:05 (Chesser). And when discussing Crystal’s disappearance, he said, “No evidence. No case.” *Id.* at 9:55:05-9:55:30 (Chesser). Elizabeth understood Steve to mean “that there wasn’t a body left.” *Id.*

D. Law enforcement’s investigation of Crystal’s disappearance homed in on Steve, Brooks, and Joey.

On July 5, 2015, investigators found Crystal’s car abandoned at mile marker 14 of the Bluegrass Parkway between Bardstown and Elizabethtown. VR.5/27/2025, 2:49:05-2:52:00 (Snow). Skid marks on the road and a piece of metal in one of the tires established that the car had a flat tire. *Id.* at 2:52:00-2:56:00 (Snow). The keys were still in the ignition when investigators discovered the car. *Id.* Investigators also found Crystal’s purse, driver’s license, a small amount of money, her debit card, and an EBT card, among other things, in the car. *Id.* at 3:10:00-3:11:00 (Snow); *see also* Com. Ex. 16. As Detective Jonathan Snow testified, “It did not appear to me that she left on her own, given what she, what was left in the vehicle.” *Id.* at 3:11:00-3:11:40 (Snow).

On July 8, 2015, investigators interviewed Brooks. *Id.* at 3:21:40-3:23:15 (Snow). When shown the call records from that night, Brooks initially denied

knowing the owner of the number that had called him. *Id.* But he later admitted that it was Steve's. *Id.* He called Steve on speakerphone from the sheriff's office. *Id.* at 3:44:30-3:45:45. Brooks asked whether Steve could do some work for him the following week. *Id.* Steve said that he could and then, without prompting, told Brooks, "I'm still looking for a place, that's why I need the numbers from you." *Id.* Brooks turned the conversation back to inquiring about whether Steve could help him with skid-steer work. *Id.* But he then asked whether Steve could remind him why Steve had called just after midnight on July 4. *Id.* Steve said that he called to inquire about renting an apartment and that Brooks had responded that he'd call Crystal to have her get in touch with him. *Id.*

This call was staged. As Steve testified, he "previously, maybe two weeks before that, asked [Brooks] for an apartment." VR.5/28/2025, 3:51:50-3:52:25 (Steve, Sept. 2023 Grand Jury). But that was not what they discussed on the midnight call on July 4, 2015. Before the call on July 8 took place, Brooks told Steve that "he could use [him] asking for [the apartment] when [Brooks] called [him]." *Id.* Steve said it was "what you call a code word." *Id.* The July 8 call was staged to avoid getting "in trouble." VR.5/30/2025, 9:32:00-9:33:55 (Steve, Trial). At trial, Steve testified, "You could call it a white lie or a big lie. We'll just call it a lie." VR.5/30/2025, 9:33:55-9:34:30 (Steve).

Investigators also secured call records, which showed a flurry of calls involving Steve, Joey, Brooks, and Tammy around midnight on July 3. Specifically:

- Joey called Steve at 11:06 p.m. on July 3. Steve did not answer.
- Joey called Tammy at 11:07 p.m. on July 3. Tammy did not answer.
- Joey called Steve at 11:54 p.m. on July 3. Steve did not answer.
- Joey called Tammy at 11:55 p.m. on July 3. Tammy did not answer.
- Steve called Joey at 12:01 a.m. on July 4. It is unclear whether Joey answered.
- Joey called Steve at 12:03 a.m. on July 4. Steve answered and the call lasted 2 minutes and 38 seconds.
- Steve called Brooks at 12:07 a.m. on July 4. Brooks answered and the call lasted 15 seconds.
- Tammy called Steve at 1:08 a.m. on July 4. Steve answered and the call lasted 3 minutes and 43 seconds.
- Tammy called Joey at 1:48 a.m. on July 4. Joey answered and the call lasted 8 minutes and 37 seconds.
- Joey called Steve at 7:28 a.m. on July 4. Steve did not answer.

VR.5/28/2025, 2:55:45-3:01:30 (Dover);⁴ Com. Ex. 30.

Investigators interviewed Steve multiple times, but he was not always forthcoming. When asked at trial if he would “agree that [he] lied a lot over the years,” Steve answered, “Yes, sir.” VR.5/30/2025, 9:07:00-9:07:20 (Steve, Trial). For example, Steve initially told investigators that he was home drinking all night on July 3 and that he never saw or touched Crystal’s car. VR.5/29/2025, 8:41:20-

⁴ Melissa Dover was a crime and intelligence analyst for the Elizabethtown Police Department who obtained and analyzed cellular data in connection with Crystal’s disappearance. *Id.* at 2:07:30-2:11:00.

9:04:30 (Steve, Aug. 2020 Interview). He later explained his presence on the Bluegrass Parkway by saying he was chasing “some gentlemen” with whom he had an “altercation.” VR.5/28/2025, 3:38:50-3:40:00 (Steve, Sept. 2023 Grand Jury).

Steve also initially said he couldn’t remember making the call to Brooks after midnight on July 4, 2015. VR.5/27/2025, 3:53:20-3:54:30; 4:05:15-4:06:15 (Steve, Aug. 2015 Interview). But he later said that he called Brooks to inquire about an apartment for his daughter-in-law, Lauren Hardin. *Id.* at 4:26:10-4:27:00 (Steve, Sept. 2015 Grand Jury). But Lauren testified that she was not looking for an apartment to rent at the time. VR.5/28/2025, 9:15:25-9:15:50 (Hardin).

E. The Commonwealth indicted Steve but offered him a non-prosecution agreement conditioned on his complete and truthful cooperation with authorities.

On May 24, 2023, Steve was indicted for tampering with physical evidence. TR.1-2.⁵ The Commonwealth subsequently offered him a non-prosecution agreement on the condition that he provide a 100% truthful account to detectives of his knowledge of the conspiracy to murder Crystal. *See* TR.240-42. The parties do not dispute that this agreement was premised on Steve’s being 100% truthful. *See, e.g.,* Lawson Br. 12. As relevant here, Steve was interviewed by two KSP detectives and, to a lesser extent, Commonwealth’s Attorney Shane

⁵ Unless otherwise noted, citations to the written transcript refer to the record in case number 23-CR-0165.

Young on June 8 (for nearly seven hours), June 14 (for over three hours), August 22 (for over four hours), and September 12, 2023 (for two and a half hours). TR.236.⁶ And after being indicted, he testified to the grand jury on June 14 and September 20, 2023. *Id.* But as Steve acknowledged, he was not 100% truthful in his statements to investigators. TR.245-46. So on December 6, 2023, the Commonwealth sought, and a grand jury issued, another indictment for conspiracy to commit murder. Case No. 23-CR-0371, TR.1. And the Commonwealth prepared to move forward with Steve’s criminal trial on the two indictments.

Steve moved to dismiss his indictments based on his non-prosecution agreement. TR.16-26. But the circuit court agreed with the Commonwealth that Steve “breached his immunity agreement with his untruthfulness about matters that are clearly material to the Commonwealth’s investigation and prosecution.” TR.246. The circuit court “thoroughly reviewed all of Lawson’s interviews and grand jury testimonies” and methodically laid out several instances in which Steve lied to or misled investigators. TR.243-45. The circuit court also highlighted two instances when Lawson acknowledged that he lied to investigators in a way that had “fu***d [his] deal up.” TR.245-46. Because Steve “provided wildly

⁶ The video recordings of these interviews and two grand jury proceedings were conventionally filed in the circuit court. The thumb drive containing these recordings is in the physical record and the notice of this filing is located at TR.236. Accordingly, the Commonwealth cites these video recordings as follows: TR.236, [DATE], [TIME].

inconsistent information about matters that [were] material to the Commonwealth's investigation and prosecution," and thus repeatedly breached the non-prosecution agreement, the circuit court found "that the prosecution should be allowed to proceed despite the agreement." TR.243, 246.

F. The jury convicted Steve of conspiracy to commit murder and tampering with physical evidence and sentenced him to 17 years in prison.

At trial, the Commonwealth presented the evidence discussed above. At the close of the Commonwealth's proof, the circuit court denied Steve's motion for judgment of acquittal. VR.5/29/2025, 10:30:50-10:34:50. Steve renewed that motion at the close of his proof, and the circuit court again denied it. VR.5/30/2025, 10:22:00-10:26:00.

The jury convicted Steve on both counts. TR.592-93. It fixed Steve's punishment for conspiracy to commit murder at 17 years, to be served concurrently with a 5-year sentence for tampering with physical evidence. TR.596. The circuit court thereafter denied Steve's motion for a new trial and judgment notwithstanding the verdict and entered a final judgment of conviction consistent with the jury's decision. TR.638-39.

This appeal followed. TR.644-45.

ARGUMENT

None of Steve’s four claims on appeal have merit.⁷

I. **Steve breached his non-prosecution agreement and thus had no basis to avoid prosecution.**

The circuit court did not abuse its discretion in finding that Steve breached his non-prosecution agreement by not being truthful with investigators.

A. **Standard of Review**

In Kentucky, “a prosecutor may not unilaterally grant immunity to a witness who is unwilling to testify at trial.” *Commonwealth v. Blincoe*, 34 S.W.3d 822, 825 (Ky. App. 2000). But “the prosecution may enter into an agreement with a defendant, stating that it will not prosecute him in exchange for testimony to be given at trial.” *Id.* at 824 (citing *Bray v. Commonwealth*, 703 S.W.2d 478, 479 (Ky. 1985)); *see also* *Byrd v. Commonwealth*, 2002-CA-000600-MR, 2003 WL 22462675, at *4 (Ky. App. Oct. 31, 2003) (nonbinding).

Non-prosecution agreements “are subject to basic contract rules, although the contracts must be governed by the constitutional nature of the rights involved.” *McKinney v. Commonwealth*, 2022-CA-0261-MR, 2023 WL 3133175, at *3 (Ky. App. Apr. 28, 2023) (nonbinding) (citing *Commonwealth v. Morseman*, 379

⁷ The Commonwealth does not address Steve’s now-withdrawn *Brady* claim.

S.W.3d 144 (Ky. 2012)). “Where such a promise has been made, the prosecution is bound by it.” *Blincoe*, 34 S.W.3d at 824.

But so is the defendant. These agreements are often contingent on the defendant’s providing truthful testimony. In those circumstances, if the defendant lies, misleads, or makes material omissions, he has not upheld his end of the bargain. The Commonwealth may prosecute if there is a “rational basis which would relieve the attorney for the Commonwealth from the performance of his bargain.” *Workman v. Commonwealth*, 580 S.W.2d 206, 207 (Ky. 1979), *overruled on other grounds by Morton v. Commonwealth*, 817 S.W.2d 218 (Ky. 1991).

In denying Steve’s motion to dismiss his indictment, the circuit court made a factual finding that Steve was not 100% truthful with investigators and thus did not uphold his end of the bargain. TR.237-49. On appeal, this Court “review[s] [that] decision concerning the dismissal of an indictment for an abuse of discretion.” *Mitchell v. Commonwealth*, 423 S.W.3d 152, 156 (Ky. 2014). Under that standard, this Court “will not substitute [its] own findings of fact unless those of the trial court are ‘clearly erroneous.’” *Miller v. Harris*, 320 S.W.3d 138, 141 (Ky. App. 2010) (citation omitted).

B. Steve breached his non-prosecution agreement by repeatedly lying to and misleading investigators.

The parties agree about the existence of a non-prosecution agreement and its terms. As Lawson describes it (at 23), the Commonwealth “promised Steve

immunity if he would tell them 100% the truth.” *See also* TR.240-42. The question for this appeal, then, is whether the circuit court abused its discretion in finding that Lawson did not hold up his side of the bargain. It did not.

1. The circuit court conducted an exhaustive review to determine whether Steve violated his agreement. The parties “came before the Court for a hearing on June 13, 2024,” at which time they “proffered a number of audio and/or video recordings from Lawson’s interrogations on June 8, 2023, June 14, 2023, August 22, 2023, and September 12, 2023, plus his grand jury testimonies from June 14, 2023, and September 20, 2023.” TR.238. The court “thoroughly reviewed all of Lawson’s interviews and grand jury testimonies,” which totaled “many hours” of audio and video. TR.240, 243. After that searching review, the court determined that the “recordings clearly establish that Lawson provided wildly inconsistent information about matters that are material to the Commonwealth’s investigation and prosecution.” TR.243.

Before reviewing the specific instances when Steve lied, it is important to note that he *admitted* to investigators that he lied. And he recognized that those lies amounted to a breach of his non-prosecution deal. For example, on a recorded jail call to his mother after his arrest, he stated, “You was right about a lot of things, let me tell you, you was.” TR.246. When his mother asked what Steve meant, he responded, “Well, you know, you said when I lied, it fu***d my deal up.” *Id.*; *see also* TR.235 (File Titled, “Steve - Jail Call”). And during one of his

interviews with police investigators, a detective told Steve that he “lied to us on multiple occasions.” TR.245. Steve responded, “And did I disagree with that, sir?” *Id.* The circuit court rightly noted that these “two admissions” are “the most damning evidence of untruthfulness.” *Id.* In fact, even by the end of the first interview, the Commonwealth’s Attorney told Steve, “I’m going to be honest with you, I think you’ve been about 70-80% truthful. At this point you don’t have immunity, because you have to be 100% truthful.” TR.236, 6/8/2023, 9:00:15-9:00:35. Steve did not object to the prosecutor’s characterization that he had already breached his non-prosecution agreement. And the Commonwealth’s Attorney never retracted that statement or told Steve that he had subsequently cured his non-compliance.⁸

The record of Steve’s interviews and grand-jury testimony confirms that he was not completely truthful with investigators. The circuit court identified five instances of material lies, omissions, or misleading statements. Each one is supported by the record.

First, the circuit court found that Steve lied to investigators about his relationship with Brooks. TR.243. That finding is supported by the record. Steve

⁸ These were not the only times that Steve admitted he was not 100% truthful with detectives. *See* TR.236, 6/8/2023, 7:46:30-7:46:50 (“I bullshitted you [points to one detective]. And I bullshitted you [points to the other detective]. And I guess the gentlemen, [Commonwealth’s Attorney] Shane [Young], I think was his name.”).

told investigators that he had “never done no work for Brooks a day in [his] life ... until [his] son got hooked up with Brooks.” TR.236, 6/8/2023, 3:51:45-3:52:15. And two months later he told investigators that he couldn’t “recall ever working for Brooks Houck before this.” TR.236, 8/22/2023, 6:35:15-6:35:30. But he had previously testified to a grand jury that he had known Brooks for 20 years and had worked with him “a half dozen times” over that period. VR.5/27/2025, 4:21:20-4:23:00 (Steve, Sept. 2015 Grand Jury).

Second, the circuit court found that Steve lied to investigators about whether he knew where Joey was taking Crystal’s car. TR.243-44. That finding is supported by the record. On June 14, 2023, investigators asked where Joey was “taking the car, what was the plan?” TR.236, 6/14/2023, 2:36:00-2:36:20. Steve responded that Joey was going “to take it to ... BG.” *Id.* But on September 12, 2023, he told investigators, “I didn’t know [Joey] was going to the Bluegrass. That’s a fact. I did not know this.” TR.236, 9/12/2023, 7:58:30-7:58:40.

Third, the circuit court found that Steve lied to investigators about who else was involved in putting Crystal’s car on the Bluegrass Parkway. TR.244. That finding is supported by the record. On June 8, 2023, investigators asked Steve why his wife, Tammy, was “two minutes behind [him] on the parkway.” TR.236, 6/8/2023, 6:36:25-6:37:00. Steve answered, “She was mad. Told you. She was drunk, pissed off, always wanting to f****ng fight... . She was just crazy. She got f****ng mad she didn’t f**k. She’d hunt me down to the end of time and blow

my damn head off.” *Id.* But then on August 22, 2023, he told investigators, “Tammy wasn’t on no Bluegrass with us. No she wasn’t. Hell no.” TR.236, 8/22/2023, 10:18:30-10:18:50.

Fourth, the circuit court found that Steve lied to investigators about the location of the skid steer, which may have been intended for use in the conspiracy. TR.244. That finding is supported by the record. On September 12, 2023, Steve testified that he left the skid steer by a tree after finishing work at a construction site on July 3, 2015, but that when he returned, it was gone. TR.236, 9/12/2023, 8:58:00-8:59:10. Steve said that for five years after that day, he “accused [Joey] of stealing it.” *Id.* But on November 21, 2023, Lawson told police that Joey was using the skid steer at Thompson Hill Road after Crystal’s disappearance. VR.6/13/2024, 9:46:20-9:47:20; TR.244. A police report from Lawson’s November 21, 2023, interview notes that Steve “had denied that the Skid-steer had ever left the construction sites after Rogers disappearance in a previous interview” and that Steve “cannot explain the change after being questioned.” TR.108.

Fifth, the circuit court found that Steve lied to investigators about his call to Brooks shortly after midnight on July 4, 2015. TR.244-45. That finding is supported by the record. On June 8, 2023, investigators pressed Steve about whether Brooks had told Steve what to say about the July 4 call when Brooks had called

him on July 8, 2015. One of the investigators said, “We’ve all heard that conversation. And you can tell that conversation was planned and/or rehearsed.” TR.236, 6/8/2023, 6:16:00-6:17:00. Steve bristled at that notion. He said, “I did not sit around with Brooks and say, hey man, I’m going to call you, and we’re going to have this. No man.” *Id.* When the other investigator said that the conversation “was obviously staged,” Steve responded, “I don’t believe so.” *Id.* at 6:18:30-6:18:45. Only after being repeatedly pressed by investigators to tell the truth did Steve admit that Brooks told him what to say on that call—specifically, he told Steve to lie and say that the midnight call on the night of Crystal’s disappearance was about Steve’s looking for an apartment. *Id.* at 6:31:45-6:32:15. When Steve finally told the truth, the investigators reminded him that “withholding stuff is the same as lying” when it comes to his non-prosecution agreement. *Id.* at 6:34:20-6:34:40.

These are not the only examples of Steve lying to investigators. For example:

- Steve lied (and admitted to lying) about whether he saw or touched Crystal’s car on the Bluegrass Parkway the night she disappeared. On June 8, 2023, Steve told investigators, “I didn’t see [Crystal’s] car that night. I promise you. ... I did not see no car when I picked him up.” TR.236, 6/8/2023, 6:50:20-6:51:50. But less than an hour later, he told investigators, “Well when I stopped to pick him up, I seen the car.” *Id.* at 7:36:20-7:36:35. Steve also testified at trial about how he moved the seat in Crystal’s car, thus confirming that his

previous denials were lies. VR.5/30/2025, 9:27:30-9:28:50 (Steve, Trial).

- Steve lied about Joey’s involvement in moving Crystal’s car. At the beginning of his interview on June 8, 2023, Steve feigned ignorance about his son’s role. He said, “Now if my boy done something, now let me ask you ... did my son do something? ... I’m begging you ... Look me in the eyes and tell me. I mean you tell me the truth. You think my son done something? ... Please tell me.” TR.236, 6/8/2023, 3:01:30-3:02:50. One of the investigators saw through the charade and responded, “Steve, we think you already know the answer.” Later, Steve again lied and said, “I never seen Joey directly at [Crystal’s] car.” *Id.* at 6:50:50-6:51:00. As Steve would later testify, he met Joey at Crystal’s car and of course knew about his son’s role in moving the car. *See* VR.5/28/2025, 3:49:25-3:50:30 (Steve, Sept. 2023 Grand Jury).
- Steve repeatedly lied about the extent of his own involvement in and knowledge of the conspiracy to murder Crystal. Well into his interview on June 8, 2023, Steve told investigators that the first time he became aware of anything relating to Crystal or her car was when he picked Joey up on the Bluegrass Parkway late on July 3 or early on July 4, 2015. TR.236, 6/8/2023, 7:46:00-7:46:30. But as detailed in Section B of the Counterstatement of the Case, Steve had prior knowledge that Brooks wanted Crystal killed, and he previously agreed to help dispose of Crystal’s car.
- Steve gave inconsistent statements about why he moved the seat forward in Crystal’s car. After avoiding answering the question earlier in his interview, Steve suggested to investigators that he moved the seat only so that he could retrieve a Louisville Slugger baseball bat from the car. TR.236, 6/8/2023, 8:07:15-8:07:40. But as Steve would later admit, he moved the seat to make it appear as if Crystal had been driving the car. VR.5/28/2025, 3:50:10-3:50:30 (Steve, Sept. 2023 Grand Jury); VR.5/30/2025, 9:27:30-9:28:50 (Steve, Trial).

- Steve lied about what he stood to gain by helping to move Crystal's car. On June 14, 2023, investigators pressed Steve about what was in it for him. TR.236, 6/14/2023, 3:57:10-3:57:30 ("Something has to be in it for you."). But Steve repeatedly stated that he didn't receive any money and wasn't "supposed to get any damn thing." *Id.* at 3:58:30-3:58:40. He told investigators that he helped move the car, no questions asked, to maintain a relationship with his son. *Id.* at 3:58:40-3:59:00. But he resisted telling investigators the real reason: that Brooks promised to give him all of his drywall business. VR.5/28/2025, 3:52:35-3:53:00 (Steve, Sept. 2023 Grand Jury); VR.5/30/2025, 8:54:35-8:55:05 (Steve, Trial).
- Steve lied about telling Brooks that Charlie Girdley could kill Crystal. In his interview with detectives on September 12, 2023, Steve recounted his conversation with Brooks when Brooks said that he wanted Crystal "gone." Steve said that he told Brooks, "I ain't no killer." TR.236, 9/12/2023, 8:33:40-8:34:20. And when Brooks asked, "Can you point me in the direction," Steve claimed he responded, "No, I can't. I don't know no killer out here." *Id.* But as Steve later admitted, he recommended Charlie Girdley to Brooks. VR.5/28/2025, 3:45:10-3:46:15 (Steve, Sept. 2023 Grand Jury).

2. Steve does not even try to argue that the lies identified by the circuit court were not, in fact, lies. He instead offers a smorgasbord of reasons why he should still have benefited from the agreement despite his lies.

First, Steve argues (at 19-22) that at various points throughout his four interviews, the Commonwealth acknowledged that the non-prosecution agreement was still in effect.

As discussed above, the Commonwealth's Attorney told Steve at the end of his first interview that he had already breached the agreement. TR.236,

6/8/2023, 9:00:15-9:00:35.⁹ And the statements cited by Steve in subsequent interviews do not make clear that the deal was back on. Steve cites (at 20) the Commonwealth’s Attorney’s statement on June 14, 2023, that he was “on tape forty times explaining to him that I’m giving him immunity.”¹⁰ But that statement was backwards looking: The Commonwealth’s Attorney noted that the Commonwealth had extended the offer (which was contingent on 100% honesty) in the previous interview on June 8, 2023, not that Steve was still in compliance with the deal on June 14.

Steve cites (at 21) two other statements by detectives, on August 22 and September 12, 2023, respectively. *See* TR.236, 8/22/2023, 9:59:50-10:00:05 (“You’re getting ready to sink your own boat for no reason, Steve, and I don’t want you to do that.”); TR.236, 9/12/2023, 10:19:30-10:20:00 (“I’m glad you’re in the position that you’re in and not a different one ... under the circumstances, you have the opportunity that you have, and I just ask that you take full advantage of it.”). But as discussed, when these statements were made, the Commonwealth had already told Steve that he had breached his deal. And neither statement

⁹ Steve wrongly argues (at 18) that the Commonwealth didn’t tell Steve that the deal was off until December 19, 2023.

¹⁰ Notably, Steve leaves out the rest of the Commonwealth’s Attorney’s statement: “I’m on tape 40 times explaining to him that I’m giving him immunity on this thing, *he just needs to tell me everything.*” TR.236, 6/14/2023, 4:04:10-4:04:20 (emphasis added).

clearly states that Steve had brought himself back into compliance with the deal. At most, they demonstrate that Steve had the *opportunity* to come back into compliance with the deal.¹¹

In any event, only “*the prosecution*,” not police detectives, “may enter into a[] [non-prosecution] agreement with a defendant.” *Blincoe*, 34 S.W.3d at 824 (emphasis added). So even if the detectives purported to confirm that Steve’s agreement was still in effect, it was not something they had the authority to do.

Second, Steve argues (at 18) that the Commonwealth could not withdraw the agreement because he had “detrimentally relied on it.” But the agreement was expressly conditioned on Steve’s being 100% truthful. A defendant cannot rely his way around a condition he never satisfied. The only case Steve cites to support his argument, *Commonwealth v. Reyes*, 764 S.W.2d 62 (Ky. 1989), is not to the contrary. That case says that the Commonwealth cannot back out of a deal when a defendant “did everything he had agreed to do” and “detrimentally rely[d] on the government’s promise.” *Id.* at 65. But Steve failed to do “everything he had agreed to do” because he did not give 100% truthful testimony. *Id.*

¹¹ Steve’s quotation of the September 12, 2023, statement is also missing important context. The opportunity the detective was referring to was not Steve’s opportunity to avoid prosecution, but rather Steve’s opportunity to deliver justice for Crystal’s family. See TR.236, 9/12/2023, 10:19:30-10:19:50 (“We want to do right by [Crystal’s] family. And you’re in a rare opportunity to right some wrongs.”).

Third, Steve argues (at 24) that he “materially performed his part of the agreement” because his lies were about matters “not an issue at the trial.” But the agreement was conditioned on 100% honesty. Steve cites no statement by the Commonwealth’s Attorney suggesting that the deal was instead conditioned on 100% honesty *as it relates to matters at issue at the trial*. In any event, those issues were certainly material to the Commonwealth’s *investigation*, which is what mattered when Steve was interviewed in 2023. And they were even material to the trial in providing the jury a complete view of Steve’s involvement in the conspiracy. Steve thus “materially fail[ed] to perform the agreement” by repeatedly lying to investigators about important matters relating to their investigation. *Hensley v. Commonwealth*, 217 S.W.3d 885, 887 (Ky. App. 2007).

Finally, Steve argues (at 24) that the Commonwealth’s position is “logically inconsistent.” In his view, either he lied or the convictions prove that his lies were immaterial. This position fails to grasp that a witness can provide both truthful and false information at various points throughout a criminal investigation and prosecution. The Commonwealth used Steve’s truthful statements to obtain a conviction. But that does not mean that he didn’t lie at other points, and it does not retroactively make those lies immaterial to the Commonwealth’s criminal investigation. In any event, the Commonwealth did not introduce any of Steve’s statements from the four relevant interviews at trial.

There are countless other examples of Steve resisting giving complete answers to questions. The over 15 hours of interviews are in the record and available for the Court to review. *See* TR.236. But the examples listed above more than suffice to show that Steve breached his non-prosecution agreement.

II. The Commonwealth presented sufficient evidence to convict Steve Lawson of conspiracy to commit murder.

Steve's sufficiency-of-the-evidence claim lacks merit.

A. Standard of Review

KRS 506.040(1) provides that a person "is guilty of criminal conspiracy" when he has "the intention of promoting or facilitating the commission of a crime" and either "[a]grees with one (1) or more persons that at least one (1) of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime" or "[a]grees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime." *See also* KRS 507.020 (murder statute).¹² A neighboring statute, KRS 506.050, further provides that "[n]o person may be convicted of conspiracy to commit a crime unless an overt act in furtherance of the conspiracy is alleged and proved to have been committed by one (1) of the conspirators." The overt act, therefore, need not be committed by the defendant.

¹² The circuit court did not instruct the jury on the solicitation theory of conspiracy to commit murder. TR.588-91.

Criminal conspiracy is different in important ways from the crime that is the object of conspiracy. Conspiracy is “an inchoate offense, the essence of which is an agreement to commit an unlawful act.” *Iannelli v. United States*, 420 U.S. 770, 777 (1975). That is why the section of the Kentucky Revised Statutes on criminal conspiracy is housed in a chapter titled, “Inchoate Offenses.” KRS Chapter 506. Conspiracy is “separate and distinct” from “the commission of the substantive offense.” *Pinkerton v. United States*, 328 U.S. 640, 643 (1946); *cf. Commonwealth v. Speakes*, 740 S.W.2d 941, 942 (Ky. 1987) (“KRS 528.040 separates the crime of conspiracy to promote gambling and the crime of conducting gambling and assigns to each a different penalty.”). It therefore “has ingredients, as well as implications, distinct from the completion of the unlawful project.” *Pinkerton*, 328 U.S. at 644; *see also United States v. Iribe*, 564 F.3d 1155, 1160 (9th Cir. 2009) (“By definition, conspiracy and attempt are inchoate crimes that do not require completion of the criminal objective.”). Put another way, the Commonwealth does not need to prove murder to establish conspiracy to commit murder.

For the trial court to deny Steve’s directed-verdict motion, the evidence only had to be “sufficient to induce a reasonable juror to believe beyond a reasonable doubt that [he was] guilty” of conspiracy to commit murder. *Commonwealth v. Benham*, 816 S.W.2d 186, 187 (Ky. 1991). The court had to “draw all fair and reasonable inferences” in the Commonwealth’s favor, “assume that the evidence for the Commonwealth is true,” and “reserv[e] to the jury questions as to

the credibility and weight to be given to such testimony.” *Id.* Circumstantial proof suffices. As with other proof, a “[c]onviction can be premised on circumstantial evidence.” *Graves v. Commonwealth*, 17 S.W.3d 858, 862 (Ky. 2000). “[D]irect proof of guilt is not necessary.” *Southworth v. Commonwealth*, 435 S.W.3d 32, 42 (Ky. 2014). Importantly, the court looks only at whether the proof shows the elements in the “statutes creating the offense,” not as those elements appear in the instructions. *Smith v. Commonwealth*, 636 S.W.3d 421, 434 (Ky. 2021) (citation omitted).

The appellate-review standard “is perhaps even more deferential than that used by the trial court.” *Riggle v. Commonwealth*, 686 S.W.3d 105, 118 (Ky. 2023). Thus, “a directed-verdict decision will be reversed only ‘if under the evidence as a whole, it would be clearly unreasonable for a jury to find guilt.’” *Southworth*, 435 S.W.3d at 42 (citation omitted).

B. Ample evidence supported Steve’s conviction on the conspiracy charge.

Steve identifies two alleged gaps (at 28) in the Commonwealth’s evidence: there was (1) “no evidence that Rogers was murdered” and (2) no evidence that “Steve or a co-conspirator took an overt act in furtherance of Rogers’ murder.”

1. Steve’s first argument fails because death is not an element of conspiracy to commit murder. As discussed above, it is blackletter law that conspiracy is an inchoate offense that does not require “the completion of the unlawful project.” *Pinkerton*, 328 U.S. at 644. The “essence of conspiracy is the *agreement* to

commit the crime,” not the commission of the act itself. *Wyatt v. Commonwealth*, 219 S.W.3d 751, 758 (Ky. 2007) (emphasis added); *see also Iannelli*, 420 U.S. at 777 (same). As a Texas court put it, while the “corpus delicti in a prosecution for murder consists of a dead victim who met his demise because of the criminal act of another,” the “corpus delicti of a conspiracy is the *agreement* to commit the crime.” *Mack v. State*, 772 S.W.2d 162, 165 (Tex. App. 1989). The Commonwealth therefore did not need to prove that Crystal was murdered to convict Steve of conspiracy to commit murder. The agreement and overt acts in furtherance of the agreement are enough.

Even if the Commonwealth had to prove death, it adduced sufficient evidence to prove that Crystal was murdered. Kentucky has long recognized “that circumstantial evidence is competent to establish the fact that the person charged to have been murdered is dead.” *Johnson v. Commonwealth*, 81 Ky. 325, 327 (Ky. 1883). Indeed, “[t]he competency of circumstantial evidence to establish the fact of death is acknowledged universally, and ... its conclusiveness is for the jury and not for the determination of the court.” *Id.* at 328. And “circumstantial evidence is admissible to [prove] the corpus delicti, and the accused may be found guilty solely upon it, equally in murder and other crimes.” *Laughlin v. Commonwealth*, 37 S.W. 590, 592 (Ky. 1896). “[T]he law does not subscribe to the rigid formula that the body must be found or seen after death.” *Warmke v. Commonwealth*, 180 S.W.2d 872, 873 (Ky. 1944).

Here, the strongest evidence of death is the fact that Crystal disappeared out of the blue, leaving behind five children, in circumstances that demonstrated she did not simply run away. VR.5/27/2025, 4:40:00-4:40:30 (Snow). Her car also strongly suggested that she did not run away of her own volition. Many items that would have been useful to her if she had, in fact, run away were still in her car, including her purse, driver's license, money, her debit card, and an EBT card, among other things. *See* Com. Ex. 16. As Detective Snow testified, "It did not appear to me that she left on her own, given what she, what was left in the vehicle." VR.5/27/2025, 3:11:00-3:11:40 (Snow).

This case mirrors *Phillips v. Commonwealth*, 2004-SC-0936, 2006 WL 3386575 (Ky. Nov. 22, 2006) (nonbinding). In *Phillips*, the Commonwealth had direct proof of "neither [a] body nor any other physical evidence of death or injury." *Id.* at *4. But the victim's "disappearance without a trace was strong circumstantial evidence of her death by criminal agency," especially since she was "a good mother," which meant that she "would be unlikely to abandon her children." *Id.*

2. The Commonwealth also adduced sufficient evidence to prove that Steve took several overt acts in furtherance of the conspiracy.

The overt-act requirement is a low bar. As the U.S. Supreme Court has explained, it "is not necessary that an overt act be the substantive crime charged in the indictment as the object of the conspiracy," "[n]or, indeed, need such an

act, taken by itself, even be criminal in character.” *Yates v. United States*, 354 U.S. 298, 334 (1957). Instead, the “function of the overt act in a conspiracy prosecution is simply to manifest that the conspiracy is at work.” *Id.*; *see also* 16 Am. Jur. 2d *Conspiracy* § 12 (“Where an overt act is required for a conspiracy prosecution, the act need not be unlawful or criminal but may be any act, innocent or illegal, accompanying or following the agreement.”).

Steve assumes (at 28) that the overt act must be in furtherance of Crystal’s *murder*. But KRS 506.050 clearly states that the overt act must be “in furtherance of the *conspiracy*.” (Emphasis added.) This is an important difference. “If conspirators have a plan which calls for some conspirators to perpetrate the crime and others to provide support, the supporters are as guilty as the perpetrators.” *Salinas v. United States*, 522 U.S. 52, 64 (1997). Steve’s argument (at 31) that if Crystal “was already dead at the time the car was moved, Steve cannot have helped promote or facilitate the murder,” relies on an overly cramped view of conspiracy liability. As the U.S. Supreme Court has explained, a defendant can conspire to commit burglary by “driving the getaway car,” which necessarily would occur *after* the burglary is committed. *Ocasio v. United States*, 578 U.S. 282, 288 (2016). As it relates to the substantive offense, therefore, the defendant need only “intend that the substantive offense *be committed*.” *Id.* (citation omitted).

Now for the evidence. Steve admitted that he drove Joey to pick up Crystal’s car. VR.5/28/2025, 3:46:45-3:47:15 (Steve, Sept. 2023 Grand Jury). That

alone satisfies the overt-act requirement. But there's more. Joey took Crystal's car, possibly to "bury it with a skid steer" so that "they'd never find it." *Id.* at 11:08:30-11:08:50 (Girdley). But a flat tire put the conspiracy at risk. VR.5/27/2025, 2:49:05-2:56:00 (Snow). At that point, Steve jumped in to salvage the conspiracy. He drove to pick up Joey where the car broke down on the Bluegrass Parkway. He "pulled the seat back up" in Crystal's car to make it appear that Crystal had been driving instead of Joey. VR.5/28/2025, 3:50:10-3:50:30 (Steve, Sept. 2023 Grand Jury); VR.5/30/2025, 9:27:30-9:28:50 (Steve, Trial). And before picking Joey up, Steve reported back to their other co-conspirator, Brooks, that "the job [was] done." VR.5/28/2025, 3:41:50-3:42:40 (Steve, Sept. 2023 Grand Jury). Steve also "point[ed]" Brooks "in the direction" of someone who would kill Crystal. VR.5/28/2025, 3:45:10-3:46:15 (Steve, Sept. 2023 Grand Jury).

Even setting aside Steve's overt acts, the Commonwealth adduced sufficient evidence of overt acts by other members of the conspiracy. *See* KRS 506.050 (overt act can be committed by any member of the conspiracy). For example, Joey picked up Crystal's car, took it to the farm at Thompson Hill Road, and then took it to the Bluegrass Parkway. VR.5/28/2025, 3:48:30-3:49:00 (Steve, Sept. 2023 Grand Jury). And Brooks facilitated the conspiracy by giving Crystal's keys to Joey, VR.5/28/2025, 11:09:35-11:10:20 (Girdley), and by offer-

ing Steve all his drywall business in exchange for Steve’s participation in the conspiracy, VR.5/28/2025, 3:52:35-3:53:00 (Steve, Sept. 2023 Grand Jury); *see also* VR.5/30/2025, 8:54:35-8:55:05 (Steve, Trial).

III. The jury instructions on conspiracy to commit murder were proper.

This Court reviews de novo whether a jury instruction accurately reflected the law. *Conyers v. Commonwealth*, 530 S.W.3d 413, 424 (Ky. 2017). It should affirm.

The jury instruction for the conspiracy charge was as follows:

You will find the Defendant guilty of Conspiracy to Commit Murder under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following:

A. That in Nelson County on or about July 3, 2015, and/or July 4, 2015, and before the finding of the Indictment herein, the Defendant *acted with the intent to promote or facilitate the murder of Crystal Rogers*;

AND

B. That in so doing, the Defendant agreed to aid Brooks Houck in the planning of this murder;

AND

C. That pursuant to, and in furtherance of that agreement, the Defendant transported Joey Lawson to the vehicle of Crystal Rogers with the purpose of relocating said vehicle.

TR.589 (emphasis added).

Steve notes (at 33-34) that his tendered instruction would have required the jury to find that “it was the defendant’s intention that [the victim] would be killed.” That is substantively no different from the actual instruction, which, as

seen in the emphasized portion above, required the jury to find that Steve intended “to promote or facilitate the murder of Crystal Rogers.” *Id.* Steve’s complaint is semantic quibbling at best. Indeed, Steve’s tendered instruction and the actual instruction are two sides of the same coin. It is unclear how a jury could find that Steve promoted or facilitated the conspiracy to murder Crystal but did not intend for her to be killed. Accordingly, even under Steve’s framing of the law, there is no error in the court’s instruction.

In any event, the language in the court’s instruction is more faithful to the conspiracy statute than Steve’s tendered instruction. As discussed above, KRS 506.040(1) provides that a person “is guilty of criminal conspiracy” when he has “*the intention of promoting or facilitating the commission of a crime*” and either “[a]grees with one (1) or more persons that at least one (1) of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime” or “[a]grees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.” (Emphasis added). The court’s instruction, which focuses on Steve’s intent to “promote or facilitate the murder of Crystal Rogers,” closely tracks the emphasized language in the statute. TR.589.

Steve cites several out-of-state cases (at 33) to argue that his proposed language would have been better. But it should go without saying that the Ken-

tucky criminal-conspiracy statute is a better guide for jury instructions on criminal conspiracy than out-of-state cases. Because the court's instructions on the intent element follow the statute nearly verbatim, there was no error. *See, e.g., Graves v. Commonwealth*, 17 S.W.3d 858, 864 (Ky. 2000) (upholding jury instruction that "comports with the language of the statute"); *Battoe v. Commonwealth*, 2003-SC-0132-MR, 2005 WL 2045437, at *10 (Ky. Aug. 25, 2005) (nonbinding) (upholding jury instructions that were "identical to the statutory definitions of 'wantonly' and 'recklessly' in all material respects").

Steve also argues (at 31) that the instructions are invalid because the Commonwealth did not adduce sufficient evidence to show that Steve's role in moving Crystal's car "helped promote or facilitate the murder." This alleged issue, however, is with the proof, not the jury instruction. The Commonwealth explained in the preceding section why Steve's sufficiency-of-the-evidence claim fails. This offshoot of Steve's jury-instruction claim is duplicative of that claim.

Steve's related argument (at 31) that the instruction is invalid because Crystal may have "already [been] dead" when the car was moved also fails. That the overt act (transporting the car) may have followed the murder does not undermine the instruction because the overt act need only further the conspiracy, not the underlying crime. *See* KRS 506.050; *Ocasio*, 578 U.S. at 288.

IV. Because there were no discrete errors with Steve’s trial, there can be no cumulative error.

Because Steve fails to show any error in his trial, he cannot establish cumulative error. *Brown v. Commonwealth*, 313 S.W.3d 577, 631 (Ky. 2010).

CONCLUSION

This Court should affirm the circuit court’s final judgment of conviction.

Respectfully submitted,

RUSSELL COLEMAN

Attorney General of Kentucky

JOHN H. HEYBURN (No. 100756)

Principal Deputy Solicitor General

SHAWN D. CHAPMAN (No. 89499)

Deputy Solicitor General

Office of the Attorney General

1024 Capital Center Drive, Suite 200

Frankfort, Kentucky 40601

Jack.Heyburn@ky.gov

ShawnD.Chapman@ky.gov

(502) 696-5300

Counsel for the Commonwealth of Kentucky

WORD-COUNT CERTIFICATE

This brief complies with the word limit of RAP 31(G)(2)(a) because, excluding the parts of the brief exempted by RAP 15(D) and 31(G)(5), this brief contains 8,594 words.

/s/ John H. Heyburn
Counsel for the Commonwealth of Kentucky