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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 05/22/2012  
RUTH A. WILLINGHAM,  
CLERK  
BY: sls

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) No. 1 CA-CR 11-0011  
)  
Appellee, ) DEPARTMENT E  
)  
v. ) **MEMORANDUM DECISION**  
)  
JEFFREY CRAIG RHONE, ) (Not for Publication -  
) Rule 111, Rules of the  
Appellant. ) Arizona Supreme Court)  
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2010-005546-001 DT

The Honorable Robert L. Gottsfield, Judge

**AFFIRMED**

Thomas C. Horne, Attorney General Phoenix  
by Kent E. Cattani, Chief Counsel,  
Criminal Appeals Section/  
Capital Litigation Section  
and Michael T. O'Toole, Assistant Attorney General  
Attorneys for Appellee

Bruce Peterson, Office of the Legal Advocate Phoenix  
by Thomas J. Dennis, Deputy Legal Advocate  
Attorneys for Appellant

H A L L, Judge

¶1 Jeffrey Craig Rhone (defendant) appeals from his  
conviction and sentence of one count of taking the identity of

another, a class 4 felony. For the following reasons, we affirm.

### **FACTUAL<sup>1</sup> AND PROCEDURAL BACKGROUND**

¶2 In February 2011, defendant was indicted on one count of forgery<sup>2</sup> and one count of taking the identity of another, both class 4 felonies.

¶3 At trial, Phoenix police officer A.B. testified that he had been on duty on the evening of December 9, 2009, when he received a purse-snatching call. While responding to the call, Officer A.B. saw an individual walk across the street and he drove his patrol car up to the individual. The individual, later determined to be defendant, stated that the purse-snatcher was "running southbound." Defendant elaborated that he had been chasing the suspect and that the suspect may have taken his wallet.<sup>3</sup> Officer A.B. asked defendant for identification and defendant handed him an identification card with the name of Nathan Taylor on it. Officer A.B. conducted a records check on the name Taylor and discovered he had several outstanding warrants. Officer A.B. then placed defendant under arrest. As

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<sup>1</sup> We review the evidence and inferences drawn from the evidence in a light most favorable to upholding the verdict. See *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

<sup>2</sup> The court subsequently granted defendant's Rule 20 motion for count 1 and dismissed that count.

<sup>3</sup> A suspect was later apprehended and detained in the purse-snatching incident.

Officer A.B. was attempting to verify the validity of the warrants, he learned that Taylor was deceased and that Taylor had a tattoo of the word "pooch" on his left forearm. Officer A.B. asked defendant if he had a tattoo of "pooch" on his forearm. Defendant responded affirmatively, but stated that he had had it removed. Officer A.B. informed defendant that he was going to have him fingerprinted to determine his identity. Defendant then stated that his name was Jeffrey Rhone and that he gave Officer A.B. Taylor's identification card because he thought he had a warrant out for his own arrest. Defendant later told Officer A.B. that he had found the identification card in an abandoned apartment and kept it because he thought Taylor resembled him. Defendant stated that he knew Taylor, but defendant did not state whether he had permission to use Taylor's identification card.

¶14 After the State rested, the court considered defendant's Rule 20 motion for acquittal for count 2, taking the identity of another. Defendant, the State, and the court discussed whether there was a corpus delicti issue. The court concluded that there was not an issue and allowed count 2 to go to the jury. The jury found defendant guilty.

¶15 Defendant subsequently renewed his motion for judgment of acquittal, or alternatively, a new trial, arguing that the verdict was contrary to the corpus delicti rule and that the

only evidence presented at trial was Officer A.B.'s testimony that defendant found the identification card in an abandoned apartment, which was uncorroborated.

¶16 The State responded that there was substantial evidence, independent of defendant's statements, to prove that defendant was guilty of taking the identity of another. The State argued that the evidence consisted of defendant's possession of Taylor's identification card, the fact that Taylor was deceased at the time of defendant's arrest, and that there was no evidence Taylor gave permission to defendant to have his identification card. The trial court denied defendant's motion, finding that "there was substantial evidence on all elements of the crime to let the jury decide the issue of guilt or innocence. . . . sufficient independent evidence, including circumstantial evidence, was presented to satisfy the corpus [delicti] that the crime charged had occurred."

¶17 Defendant timely appealed. We have jurisdiction pursuant to Article 6, Section 9 of the Arizona Constitution, and Arizona Revised Statutes (A.R.S.) sections 12-120.21(A)(1) (2003), 13-4031, and -4033(A)(1) (2010).

#### **DISCUSSION**

¶18 Defendant argues that the trial court erred in its ruling denying defendant's initial motion and renewed motion for judgment of acquittal because the State failed to meet the

requirements of the corpus delicti doctrine. This court reviews the trial court's denial of a motion for acquittal based on the corpus delicti doctrine for an abuse of discretion. *State v. Morgan*, 204 Ariz. 166, 170, ¶ 14, 61 P.3d 460, 464 (App. 2002); see also *State v. Chappell*, 225 Ariz. 229, 234, ¶ 8, 236 P.3d 1176, 1181 (2010) (we review trial court's ruling on sufficiency of the evidence of corpus delicti for abuse of discretion).

¶9 We initially note that the State requested we address as a matter of first impression whether the corpus delicti doctrine is valid under Arizona law. We, however, decline to do so. First, it is not necessary to address that issue in order to resolve the case before us. Second, the Arizona Supreme Court recently decided a case involving corpus delicti in 2010, *Chappell*, 225 Ariz. 229, 236 P.3d 1176, and court's unquestioning application of the doctrine supports the continued vitality of it. *Id.* at 234, ¶¶ 8-10, 236 P.3d at 1181.

¶10 The purpose of the corpus delicti rule is to ensure that a defendant's conviction is not based upon an uncorroborated confession or incriminating statement. See *id.* at 234, ¶ 9, 236 P.3d at 1181; see also *State v. Morris*, 215 Ariz. 324, 333, ¶ 34, 160 P.3d 203, 212 (2007). Corpus delicti may be established through an independent corroboration of the defendant's statements or by circumstantial evidence. *Chappell*, 225 Ariz. at 234, ¶ 9, 236 P.3d at 1181; *Morgan*, 204 Ariz. at

170, ¶ 15, 61 P.3d at 464 (defendant may not be convicted of crime based on uncorroborated confession without independent proof of corpus delicti, or "body of the crime"). Corpus delicti requires that a "reasonable inference that the crime charged was actually committed by some person." *State v. Flores*, 202 Ariz. 221, 224, ¶ 16, 42 P.3d 1186, 1189 (App. 2002) (citation omitted).

¶11 One commits taking the identity of another if:

the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity indentifying information of another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose or to cause loss to a person or entity whether or not the person or entity actually suffers any economic loss as a result of the offense, or with the intent to obtain or continue employment.

Ariz. Rev. Stat. § 13-2008(A) (2010).

¶12 Defendant argues that the consent element of this crime was not met because the only evidence in the record that defendant did not have Taylor's consent to use his identification card was defendant's statement to the police that he found the identification card in an abandoned apartment. Defendant cites to *Flores*, 202 Ariz. 221, 42 P.3d 1186, as support. In *Flores*, the defendant was arrested after police discovered he had an outstanding misdemeanor warrant, and, while conducting an unchallenged search incident to arrest, the police

found two unpackaged rocks of crack cocaine and \$1.53 on the defendant. *Id.* at 222, 42 P.3d at 1187. The defendant explained to police that he did not intend to smoke the cocaine, but was holding it for another individual, and that individual was going to instruct the defendant where to deliver it. *Id.* The defendant was charged with transportation of narcotic drugs for sale and possession of narcotic drugs for sale. *Id.* The trial court concluded that there was no showing of the element of "sale" and suppressed the defendant's statements under the corpus delicti rule. *Id.* This court upheld the trial court's ruling, holding that there was no reasonable inference for the sale element because the crack cocaine was not packaged or in separate baggies; the defendant was carrying a negligible amount of money on him; and no evidence was presented that the individual described by the defendant existed. *Id.* at 224-25, 42 P.2d at 1189-90.

¶13 The State argues that *Flores* is distinguishable from this case. We agree. In *Flores*, the only evidence supporting a reasonable inference of a sale was the statements made by the defendant himself. However, in this case, the evidence supporting the taking of another's identity included the identification card itself, defendant's presentation of the identification card to Officer A.B., defendant's own attempt to portray himself as Taylor, and the fact that Taylor was deceased

prior to defendant's arrest. Further, because a deceased person cannot posthumously provide consent to another individual to possess and use his or her identification card, the lack of consent element has been adequately proven.<sup>4</sup> We therefore hold that the trial court did not err.

#### CONCLUSION

¶14 For the foregoing reasons, we affirm.

\_\_\_\_\_/s/\_\_\_\_\_  
PHILIP HALL, Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
PATRICIA A. OROZCO, Presiding Judge

\_\_\_\_\_/s/\_\_\_\_\_  
JOHN C. GEMMILL, Judge

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<sup>4</sup> A Utah statute provides that a dead person may consent to another person using their identity through the written consent of their heirs or personal representatives. See *Jeppson v. United Television, Inc.*, 580 P.2d 1087, 1088 (Utah 1978) (citing section 76-9-405). A.R.S. § 13-2008, however, does not include this provision.