

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES HARDING)
) No. 93, 2000
Defendant Below)
)
Appellant,) Court Below: Superior Court
) of the State of Delaware in
v.) and for New Castle County
)
STATE OF DELAWARE,) C.A. No. IN98-12-1006
) IN No. 9812003513
Appellee.)

Submitted: September 12, 2000

Decided: October 18, 2000

Before **VEASEY**, Chief Justice, **HOLLAND** and **STEELE**, Justices.

ORDER

This 18th day of October, 2000, upon consideration of the briefs of the parties, it appears to the Court that:

1. The Superior Court denied James Harding's motion for judgment of acquittal on one count of Criminal Impersonation in violation of 11 *Del. C.* §907(1). Harding appeals, arguing that the State failed to show that Harding committed all of the required elements of Criminal impersonation.

2. This Court makes a *de novo* review of the denial of a defendant's motion for judgment of acquittal to determine whether any

rational trier of fact, viewing the evidence in the light most favorable to the State, could have found the essential elements of criminal impersonation as defined in § 907(1). *See Seward v. State*, Del. Supr., 723 A.2d 365, 369 (1999); *Fawcett v. State*, Del. Supr., 697 A.2d 385, 387 (1997).

3. On December 3, 1998, Officer Donlon of the New Castle County police stopped to assist a stranded vehicle driven by Michael King. Harding was a passenger in King's car. A registration check of the car revealed that it had been used in a recent burglary. Officer Donlon separated the two individuals, and Harding supplied the officer with a false identity. Once Donlon ascertained Harding's true identity, the officer placed Harding under arrest for criminal impersonation. After receiving consent, Officer Donlon searched the car and found a packet of cocaine. Donlon then searched King and found a similar packet, but found no cocaine on Harding. Harding and King were then arrested for possession of cocaine. At trial, Harding moved to dismiss all charges for failure to prove the elements of each offense. The Superior Court granted the motion for acquittal on the possession of cocaine charge, but denied Harding's motion for acquittal of the criminal impersonation charge.

4. Harding argues that the Superior court erred in denying his motion for a judgment of acquittal for criminal impersonation because the

State failed to show either an act by Harding or the benefit he intended to receive, both of which are necessary to fulfill the second requirement of § 907(1). Harding contends that criminal impersonation involves more than simply providing a false name. There must be an accompanying act that completes the crime. Harding asserts that he committed no such act, thus the State failed to prove he committed the crime of Criminal Impersonation.

5. The State argues, however, that Harding's giving a false name, in and of itself, constituted the requisite act completing the offense, and the benefit he intended to receive was the avoidance of prosecution. The State contends that the existence of the cocaine in the car would permit a rational trier of fact, viewing the evidence in the light most favorable to the State, to conclude that Harding gave a false name in an attempt to avoid prosecution.

6. This Court addressed a similar issue in *Worley v. State*, Del. Supr., 633 A.2d 372 (1993), in which Worley's conviction for Criminal Impersonation was affirmed because Worley used a false name to avoid outstanding capiases for fines and failure to appear in Municipal Court. Just as this Court found Worley's knowledge of outstanding capiases sufficient to justify a conviction for Criminal Impersonation, we today find the inference of Harding's knowledge of the cocaine sufficient to conclude that the Superior Court did not err in denying Harding's motion for judgment of

acquittal. The avoidance of prosecution, in itself, is a sufficient benefit under § 907 (1), and the process of providing a false name was the required act.

7. For all the reasons stated above, the Superior Court is **AFFIRMED.**

BY THE COURT:

/s/ Myron T. Steele
Justice