

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

RICHARD J. BALSBAUGH,

Defendant-Appellee.

UNPUBLISHED

August 5, 1997

No. 188010

Recorder's Court

LC No. 94-010703

Before: Murphy, PJ., and Kelly and Gribbs, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of obtaining money by false pretenses, MCL 750.218; MSA 28.415. Defendant was sentenced to a one-year term of probation. He now appeals as of right, and we affirm.

Defendant began working for Republic Tool & Die as a die maker on April 21, 1989. On September 21, 1990, defendant injured his finger during the course of employment disabling him from working for approximately thirteen and a half weeks. On September 22, 1990, defendant began collecting disability payments, in the amount of \$427 a week, as a result of his injury. Defendant was laid off from his position at Republic on June 1, 1991, but was placed on restriction and, therefore, entitled to continue receiving worker's compensation benefits.

On June 24, 1991, defendant began working as a die maker at Uni Bond Braking Company. Defendant was, again, injured during the course of his employment at Uni Bond, and filed another worker's compensation claim seeking disability payments for the three days he was unable to work due to the injury to his knee. This claim, however, was denied by Adjusting Services Unlimited (ASU), the worker's compensation company handling defendant's claim through Republic and employed by Uni Bond to handle their claims as well. While investigating defendant's worker's compensation claim against Uni Bond, an agent at ASU discovered that defendant was the same man who was already receiving disability payments from his injury at Republic. However, the social security numbers used on the petitions and on the employment applications to identify the individual were different. This discrepancy led to further examination of the claims and revealed that defendant was no longer disabled and, in fact, was working at a new job but still receiving payments for an alleged disability received at a previous job. Defendant's disability payments were terminated on February 20, 1992. Defendant had

unlawfully received and cashed checks from June 24, 1991, through February 20, 1992, totaling \$14,859.60.

The elements of the offense of obtaining money by false pretenses are (1) defendant knowingly made a false representation of fact, (2) with the intent to deceive, and (3) causing detrimental reliance on the misrepresentation. MCL 750.218; MSA 28.415; *In re People v Jory*, 443 Mich 403, 412; 505 NW2d 228 (1993); *People v Malach*, 202 Mich App 266, 270; 507 NW2d 834 (1993). On appeal, defendant challenges the sufficiency of the evidence with respect to two elements of the offense for which he was convicted. First, defendant argues that he did not make a false statement of fact. Second, defendant asserts that he did not intend to deceive Republic. When reviewing the sufficiency of the evidence, this Court views the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could have concluded that the essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985); *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979).

Our review indicates that sufficient evidence exists to support defendant's conviction. The failure to disclose information when it is necessary to do so may constitute a false pretense. *Jory, supra* at 414-415. The basis for a criminal prosecution may be silence or concealment. *Id.* at 415. A rational trier of fact could easily conclude that defendant's failure to inform Republic, or ASU, of his recovery, as well as his subsequent employment with Uni Bond, was a false representation that Republic relied upon to its detriment. Although defendant had several opportunities to do so, at no time while he was working for Uni Bond did he notify Republic, or ASU, that he had recovered or that he had secured new employment and no longer needed, or was entitled to, additional payments.

Moreover, a rational trier of fact could also conclude that by knowingly receiving and cashing checks he was not entitled to, defendant intended to deceive Republic in order to collect additional money. "Intent generally may be inferred from the facts and circumstances of a case." *Jory, supra* at 419. In addition, "[c]ircumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime." *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993); *People v Bowers*, 136 Mich App 284; 356 NW2d 618 (1984). Defendant admitted that he continued to collect disability checks after he began working at Uni Bond in order to cover the costs of additional medical expenses, not because he was still disabled.

Finally, defendant's use of two different social security numbers is sufficient evidence to allow an inference of his attempt to avoid detection and thereby deceive Republic. The trial court did not find defendant's testimony regarding the lost or stolen social security numbers credible. The credibility of witnesses who testify at trial is evaluated by the trier of fact and goes to the weight of the evidence, not to be reviewed on appeal. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988).

Affirmed.

/s/ William B. Murphy

/s/ Michael J. Kelly

/s/ Roman S. Gribbs