STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SCOTT P. REID,

Defendant-Appellant.

UNPUBLISHED
August 20, 2002

No. 231892
Presque Isle Circuit Court
LC No. 99-091778-FH

Before: Zahra, P.J., and Hood and Jansen, JJ.

PER CURIAM.

Defendant was charged with two counts of forgery, MCL 750.248, one count of uttering and publishing, MCL 750.249, and nine counts of embezzlement, MCL 750.174. Eight of the embezzlement counts were dismissed at trial. Defendant was convicted by a jury of one count of forgery and sentenced to five years' probation, the first year to be served in county jail. Defendant was also ordered to pay restitution. Defendant appeals his conviction as of right. We affirm.

Defendant was employed by Ram-Jet Corporation where he had sales and office manager duties. Defendant admittedly signed the name of Ram-Jet's owner, James Fleis, on a $9,050.20 check, which went to pay for a used automobile purchased by defendant's sister. While defendant claimed to have had permission to issue the check in connection with a loan made by Ram-Jet to his sister, Fleis claimed defendant did not have authority to issue the check.

On appeal, defendant argues that there was insufficient evidence to support his conviction of forgery. We disagree. The sufficiency of the evidence is to be evaluated by reviewing the evidence in the light most favorable to the prosecution, to determine whether a rational trier of fact could find every element of the crime proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985).

It is undisputed that defendant signed Fleis' name to the $9,050.20 check made payable to the auto dealer that sold a car to defendant's sister. According to Fleis' trial testimony, the check was not recorded pursuant to normal office procedures. Fleis claimed that only he and his wife had authority to sign corporate checks. Fleis acknowledged that he had allowed defendant to affix his name to other checks along with defendant's initials if time constraints did not allow Fleis to personally sign the checks. However, Fleis claimed he did not approve payment of the check in question. According to Fleis, he considered authorizing a loan to defendant's sister, but

decided against it and informed defendant that he did not approve of the loan.[1] A police officer testified that defendant admitted on two occasions that he did not have authority to sign Fleis' name to the check in question. By all indications, the interest rate on the loan to the sister was significantly lower than the rate charged by Ram-Jet's regular lender.[2]

Given the evidence that Fleis expressly denied authorization of a loan to defendant's sister, defendant lacked authority to sign corporate checks, defendant signed a check in connection with a loan given at a comparably low interest rate and did not properly record the check, there was sufficient circumstantial evidence from which the jury could infer that defendant signed the $9,050.20 check with intent to defraud. See *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999). Intent may be inferred from all the facts and circumstances. *People v Safiedine*, 163 Mich App 25, 29-30; 414 NW2d 143 (1987). Minimal circumstantial evidence of intent is sufficient. *People v Bowers*, 136 Mich App 284, 297; 356 NW2d 618 (1984). The fact that defendant and his sisters claimed Fleis authorized the loans to the sisters and charged the 5.6% rate in the past does not alter the result. The prosecution is not obligated to "negate every reasonable theory consistent with innocence"; rather, "it need only convince the jury 'in the face of whatever contradictory evidence the defendant may provide.'" *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000), quoting *People v Konrad*, 449 Mich 263, 273 n 6; 536 NW2d 517 (1995).

Defendant also argues that that the trial court erred in excluding evidence that Fleis had a vengeful motive to bring the allegations against defendant on the basis that the evidence was inadmissible under MRE 404(b). We disagree.

Defendant sought to introduce an excerpt of an opinion issued in a civil case in which defendant testified as a witness. Defendant's testimony in that civil case was damaging to Fleis' interest. According to defendant, the opinion excerpt should have been admitted under MRE 404(b) to show that because of defendant's act of testifying in that prior case, Fleis had motive to lie about the charges in this case.

We need not consider whether the trial court's denial of defendant's motion to admit the opinion excerpt was proper under MRE 404(b) because it is clear that any error was harmless. The trial court ruled that defendant could cross-examine Fleis regarding whether he sought

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[1] Evidence at trial established that defendant had two sisters to whom loans were made. Fleis could not recall which sister he specifically recalled considering and then rejecting a loan for. However, Fleis clearly testified that he did not authorize the checks that defendant signed in regard to the auto purchases of both sisters. Moreover, our standard of review requires us to view the evidence in the light most favorable to the prosecution. Thus, we assume that Fleis recalled expressly denying the loan on which defendant's conviction was based.

[2] Fleis testified that on occasions where Ram-Jet needed money to purchase inventory, he would borrow from a bank, which charged a 10.5% interest rate. The interest rate charged on the loan to defendant's sister was 5.6%. Defendant acknowledged that Ram-Jet borrowed money from its lender at 10.5 or 10.75%, but claimed Fleis had charged customers only 5.6% interest on past sales. Fleis specified that he had charged a 5.6% interest rate in connection with a past deal as incentive for a customer to buy a particularly expensive piece of equipment. Given the price of the equipment, Fleis claimed he still profited from that deal.

revenge against defendant based on defendant's involvement in the civil case. A review of the trial record in this case establishes that defense counsel, in fact, questioned Fleis regarding the anger he felt toward defendant resulting from defendant's involvement in the civil case. Moreover, defendant testified that he and Fleis had a "falling out" prior to Fleis reporting defendant to the police. Thus, Fleis' alleged bias against defendant was presented to the jury and the failure to admit the opinion excerpt itself did not result in a miscarriage of justice. MCL 769.26.

Affirmed.

/s/ Brian K. Zahra
/s/ Harold Hood
/s/ Kathleen Jansen