

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES DAMION MOORE,

Defendant-Appellant.

UNPUBLISHED

January 13, 2009

No. 279742

Eaton Circuit Court

LC No. 06-020324-FC

Before: Murray, P.J., and O’Connell and Davis, JJ.

MEMORANDUM.

Defendant was tried before a jury and convicted of assault with intent to murder, MCL 750.83, first-degree home invasion, MCL 750.110a(2), two counts of forgery, MCL 750.248, and two counts of uttering and publishing checks, MCL 750.249. He appeals as of right, and we affirm.

Defendant challenges the sufficiency of the evidence on his convictions. Defendant’s forgery and uttering and publishing convictions arose when he deposited two checks drawn on the account of a former girlfriend into his own bank account. Defendant maintains that the girlfriend authorized him to write the checks and to deposit them into his account. The girlfriend denied ever giving him the checks and denied ever authorizing him to make any deposit into his account. Defendant’s assault and home invasion convictions arose from a subsequent incident in which an intruder entered the girlfriend’s apartment, chased her into the hall, and stabbed her. On the day of the assault, the girlfriend told the police that defendant was the assailant. She also identified defendant as the assailant at trial. Defendant denied any knowledge of the assault, and told police that at the time of the assault he had been at home, then had gone fishing.

We review defendant’s sufficiency claim de novo, examining the record to determine whether a reasonable juror could have found that the prosecutor proved the elements of the charged crimes. *People v Nowack*, 462 Mich 392, 399-400; 614 NW2d 78 (2000). Here, the record is largely a credibility contest between defendant and his former girlfriend. A challenge to a witness’s credibility goes to the weight of the evidence. *People v Naugle*, 152 Mich App 227, 235-236; 393 NW2d 592 (1986). We defer to the jury’s superior “position to decide the weight and credibility to be given” the former girlfriend’s testimony. *People v Palmer*, 392 Mich 370, 376; 220 NW2d 393 (1974). By finding defendant guilty of the charged crimes, the jurors demonstrated their conclusion that they found the former girlfriend’s testimony credible.

Moreover, there was ample circumstantial evidence to convict defendant. As to the forgery and uttering and publishing charges, a police officer testified that defendant told police that the former girlfriend had written the checks for him. However, the girlfriend's name was misspelled on the checks. Defendant subsequently claimed that the girlfriend had given him blank checks. From this evidence, the jury could reasonably determine that defendant was not credible, and that he intended to defraud his former girlfriend. Similarly, on the home invasion and assault charges, a police officer testified that when police first interviewed defendant about the charges, he professed no knowledge of the assault. Despite professing no knowledge, defendant made reference to the assault being at the girlfriend's apartment. The officer testified that the police had not informed defendant of the location of the assault.

Further, on the day of the assault, police found chewing gum that contained defendant's DNA on the peephole of the apartment next to the girlfriend's apartment. This evidence, combined with the police officer's testimony and the other circumstantial evidence, was sufficient to support the jury's verdict. See *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 (1993) ("Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime.").

Affirmed.

/s/ Christopher M. Murray
/s/ Peter D. O'Connell
/s/ Alton T. Davis