

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLENE MAY RATLIFF,

Defendant-Appellant.

UNPUBLISHED

August 11, 2009

No. 280521

Kalamazoo Circuit Court

LC No. 06-002439-FH

Before: Owens, P.J., and Talbot and Gleicher, JJ.

PER CURIAM.

Defendant appeals as of right her jury trial conviction for welfare fraud, failure to inform, over \$500, MCL 400.60(2). We affirm.

I. Facts

Defendant applied for, and began to receive, welfare benefits from the Family Independence Agency (FIA) in May 2004. She had previously applied for unemployment benefits from the unemployment agency and began to receive these benefits in May 2004 as well. Her unemployment benefits ceased at the end of July 2004, but defendant again applied for and began to receive unemployment benefits in November 2004, while continuing to receive welfare benefits. As a result of receiving benefits simultaneously from each agency, defendant twice received welfare overpayments. The first overpayments, \$474 in cash assistance and \$371 in food assistance, were made during July 2004. The second overpayments, \$474 in cash assistance and \$393 in food assistance, were made during January 2005. Defendant was informed that she had to report any changes in income, including receipt of unemployment benefits, to the FIA within ten days. Although defendant claimed that she reported receiving unemployment benefits to her caseworkers more than once and as early as May 2004, her caseworkers for the FIA and the associated Work First program testified that defendant never informed either of them that she actually had begun receiving unemployment benefits until December 27, 2004.

II. Sufficiency of the Evidence

On appeal, defendant claims there was insufficient evidence to uphold her conviction. We disagree. When reviewing a claim of insufficiency of the evidence, this Court reviews the evidence de novo. *People v Wolfe*, 440 Mich 508, 513-515; 489 NW2d 748 (1992), amended

441 Mich 1201 (1992). “The test for determining the sufficiency of evidence in a criminal case is whether the evidence, viewed in a light most favorable to the people, would warrant a reasonable juror in finding guilt beyond a reasonable doubt. . . . The standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 399-400; 614 NW2d 78 (2000).

MCL 400.60(2) provides, in relevant portion:

There is imposed upon every person receiving relief under this act either upon the person's own application or by the person's inclusion, to his or her knowledge, in the application of another the continuing obligation to supply to the department issuing the relief: (a) the complete circumstances in regard to the person's income from employment or from any other source . . . Any person who shall neglect or refuse to submit to the department issuing relief the information required by this section . . . if the amount of relief granted as a result of the neglect or refusal is \$500.00 or more, is guilty of a felony, and upon conviction shall be punished as provided by the laws of this state.

“MCL 400.60(2) imposes on anyone receiving benefits under the Social Welfare Act, MCL 400.1 *et seq.*, a duty to report, among other things, ‘the complete circumstances in regard to his income from employment or from any other source’ . . .” *People v Joseph*, 237 Mich App 18, 19; 601 NW2d 882 (1999). “Income” is used broadly in this statute and refers to more than just “earned” income. *Id.*, at 21. “Under the welfare fraud statute, once a person has neglected or refused to provide the information, the crime is complete except for determining the amount of relief improperly obtained.” *People v Vargo*, 139 Mich App 573, 577; 362 NW2d 840 (1984). Multiple payments may be aggregated in calculating the \$500 threshold. *Id.*, at 576-578.

Defendant raises the unpreserved claim that because the prosecution did not prove that different departments issued her unemployment benefits and welfare benefits, the prosecution failed to prove that defendant had a duty to report the unemployment benefits she was receiving. Issues of statutory construction are generally reviewed *de novo*. *Universal Underwriters Ins Group v Auto Club Ins*, 256 Mich App 541, 543; 666 NW2d 294 (2003). Because this issue is not preserved, it is reviewed for plain error. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

We conclude that there was sufficient evidence presented to enable a jury to find, beyond a reasonable doubt, that defendant neglected or refused to fulfill her known and continuing duty to inform the FIA of her receipt of unemployment benefits, and this failure resulted in an overpayment of welfare benefits. We resolve any conflicting evidence in support of the jury’s verdict. *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004).

Defendant also argues on appeal that the prosecution failed to prove that she neglected to report her unemployment benefits to the welfare agency because her welfare agency caseworker admitted that defendant eventually reported that she began receiving unemployment benefits, and this was adequate to fulfill her statutory reporting requirement. We disagree.

Both of defendant's caseworkers testified that defendant never informed either of them that she received unemployment benefits in the months of May, June, July, and November 2004. Defendant was informed by her FIA caseworker when she applied for welfare benefits that unemployment benefits were the type of income that she must report to the FIA. Defendant was also instructed that she had ten days to report any changes in income. Further, defendant was given a page from the welfare department's application which reiterated that she must report changes in unemployment benefits. Defendant admitted that she was informed of the requirement that she must report changes in income, including unemployment benefits, to her welfare caseworker. Although defendant's FIA caseworker testified that defendant notified her by voice message that defendant was "starting to receive" unemployment benefits, this single notice was given on December 27, 2004, long after defendant's benefits had started in May, stopped in August, and then started again on November 12, 2004. The evidence also established that it was defendant's tardiness in reporting her November and December unemployment benefits, which resulted in the January 2005 overpayment. She failed to report her November 12, 2004, benefits until December 27. This was well after the ten-day reporting requirement about which she was informed, and it was in violation of her continuing obligation to provide the information.

In addition, the instances of overpayment during the summer of 2004, standing alone, are sufficient to support defendant's conviction. The trial evidence established, beyond a reasonable doubt: that defendant's unemployment benefits were a source of income she had an obligation to report; she was aware of this obligation; receipt of these benefits in May, June, and July was a circumstance of her income; defendant's failure to report anything regarding her receipt of unemployment benefits for these months was a negligent failure to uphold her continuing obligation to provide FIA information about the complete circumstances regarding her income; and as a result, she received overpayments in excess of \$500. MCL 400.60(2).

Affirmed.

/s/ Donald S. Owens
/s/ Michael J. Talbot
/s/ Elizabeth L. Gleicher