

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ERIC CORNELIUS HOLIMAN,

Defendant-Appellee.

UNPUBLISHED

June 12, 2012

No. 304135

Wayne Circuit Court

LC No. 10-011297-FH

Before: DONOFRIO, P.J., and JANSEN and SHAPIRO, JJ.

SHAPIRO, J. (*concurring in part and dissenting in part*).

I concur with the majority's conclusion that the district court did not abuse its discretion by binding defendant over on charges of unlawful use of a financial device and participation in a criminal enterprise. Given the quantum of evidence as to the requisite mens rea, I believe a district court could properly have declined to bind this case over. Since, however, the district court did bind the case over and there was evidence from which a reasonable person could draw an inference that the defendant possessed the requisite mens rea, I conclude that the circuit court erred by quashing those charges.

As to the charges that defendant violated MCL 752.796 by using a computer to commit a crime, I would affirm the circuit court because there was no evidence that defendant used a computer to make any of the suspect purchases. No evidence was presented that defendant made any purchases from his home or from any other remote location. All the purchases were made at the actual physical store where the goods were presented to and checked out by an actual cashier. The sole evidence of any involvement of a computer was the cashier's ordinary use of a modern cash register that performs to some degree as a computer. While this was not the basis upon which the circuit court dismissed the charge, a trial court's ruling may be upheld on appeal, where it reached the right result, albeit for the wrong reason. *Mulholland v DEC Int'l Corp*, 432 Mich 395, 411 n.10; 443 N.W. 2d 340 (1989).

/s/ Douglas B. Shapiro