

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
October 16, 2012

v

NANCY-ANN ASHENHURST-GALLINA,
Defendant-Appellant.

No. 306833
Eaton Circuit Court
LC No. 10-020001-FH

Before: JANSEN, P.J., and FORT HOOD and SHAPIRO, JJ.

PER CURIAM.

Defendant appeals as of right from her jury trial convictions of two counts of filing false or fraudulent Uniform Commercial Code (UCC) financing statements, MCL 440.9501(6). We affirm because there was sufficient evidence for the jury to find that defendant caused two fraudulent financing statements to be filed.

On appeal, defendant asserts that the prosecution failed to present sufficient evidence for a jury to find beyond a reasonable doubt that the two fraudulent financing statements were filed within the meaning of the charging statute and that defendant caused them to be filed through the actions of a third person.

We review de novo challenges to the sufficiency of the evidence. *People v Hawkins*, 245 Mich App 439, 457; 628 NW2d 105 (2001). We must determine whether any rational factfinder could have found that the essential elements of the crime were proven beyond a reasonable doubt. *Id.* The evidence must be viewed in the light most favorable to the prosecution. *People v Nowack*, 462 Mich 392, 399-400; 614 NW2d 78 (2000).

The text of the charging statute, MCL 440.9501(6), reads:

A person shall not knowingly or intentionally file a false or fraudulent financing statement with the office of the secretary of state under subsection (1)(b) or (2). In addition to any other penalty provided by law, a violation of this subsection is a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00, or both. If the person is convicted of the violation, the court may find that the financing statement is ineffective and may order the office of the secretary of state to terminate the financing statement and may order restitution.

The prosecution established that defendant's brother filed financing statements on January 6, 2009, and January 30, 2009. Defendant was listed as the secured party on both financing statements. The first financing statement listed as debtors two judges, an assistant prosecuting attorney, and a police lieutenant, all of whom had been involved in judicial proceedings for criminal trespass against defendant several years prior to the filings. The collateral portion of the statement claimed that one of the judges "failed to comply with terms of written contract 700726680000243397895, December 2nd, 2008, and was in default as of December 13th, 2008." The record does not indicate what collateral was listed for the other parties on the first financing statement. The second statement listed the same debtors and stated that they had defaulted on various contracts and owed defendant one-ounce Gold American Eagle coins, ranging in amounts from 3,000 to 102,000 coins per debtor.

Defendant argues that she did not violate MCL 440.9501(6) because the documents filed with the Secretary of State were not sufficient to perfect a security interest in any collateral, even if they had been truthful. Under MCL 440.9502(1), a filing is not sufficient unless it includes the names of the debtor and secured party, as well as indicating the collateral covered by the financing statement. However, MCL 440.9501(6) states only that a person may not file "a false or fraudulent financing statement." It does not state that the false or fraudulent statement must otherwise be sufficient to perfect a security interest. Indeed, a financing statement may be filed without being effective. See MCL 440.9506. Regardless of their other insufficiencies, the two statements involved in this case were both fraudulent, and they were both filed. That is precisely the activity prohibited by MCL 440.9501(6).

The prosecution also introduced sufficient evidence for a jury to find beyond a reasonable doubt that defendant caused these financing statements to be filed. Evidence established that defendant had engaged in a prior course of harassment against the victims, including filing false judicial tenure commission complaints, filing civil suits which were ultimately dismissed, and sending harassing letters via certified mail. Second, the certified mail numbers matched the contract numbers purported to be in default for at least one of the victims on the second financing statement. These numbers were uniquely known to defendant, and her brother could not have learned them unless they were personally disclosed by defendant. Third, defendant was listed as the secured party on both financing statements. Viewing these facts in the light most favorable to the prosecution, a jury could find beyond a reasonable doubt that defendant caused the financing statements to be filed.

Affirmed.

/s/ Kathleen Jansen
/s/ Karen Fort Hood
/s/ Douglas B. Shapiro