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NO. COA02-19

NORTH CAROLINA COURT OF APPEALS

Filed: 15 October 2002

STATE OF NORTH CAROLINA

v.

Columbus County
No. 00 CRS 50497-98

WILLIAM LEON CHESTNUT

Appeal by defendant from judgment entered 24 October 2001 by Judge Giles R. Clark in Columbus County Superior Court. Heard in the Court of Appeals 30 September 2002.

Attorney General Roy Cooper, by Assistant Attorney General LaShawn L. Strange, for the State.

Hosford & Hosford, P.L.L.C., by Sofie W. Hosford, for defendant-appellant.

BIGGS, Judge.

William Leon Chestnut (defendant) was charged with two counts of obtaining property by false pretenses. The State's evidence tended to show the following: In May of 2000, Leon Merritt reordered two boxes of checks for his checking account with Waccamaw Bank. When he received the boxes of checks, Merritt noticed a check from the last book of each box was missing. Waccamaw Bank later informed Merritt of a discrepancy in his checking account and, in June of 2000, Lieutenant D.S. Shaw of the Chadbourn Police Department was assigned to investigate the

circumstances involving the forgery of the two checks.

Lieutenant Shaw visited Waccamaw Bank and viewed a video tape showing defendant passing Merritt's checks. Defendant was subsequently arrested, advised of his *Miranda* rights and interviewed. Defendant told Lieutenant Shaw that he received the two checks on two separate occasions by a male, approximately forty-years old, wearing a mustache and riding a bicycle. Defendant stated that he gave the male \$100 in cash for a check written in the amount of \$250, and \$150 in cash for a check written in the amount of \$270 because he "could make a profit" for cashing the checks for this man. He further stated that he took the checks to Waccamaw Bank and cashed them. Defendant also told Lieutenant Shaw that he did not know the identity of the man from whom he received the two checks.

The check in the amount of \$250 was made payable to defendant and dated 16 May 2000. The name "Leon Merritt" appears on the signature line and on the "for" line was the word "labor." The check in the amount of \$270, dated 18 May 2000, was also made payable to defendant. The signature line reads "Leon Merritt" and the "for" line reads "repairs." Both checks were endorsed on the back by defendant. Leon Merritt, however, never signed the two checks or authorized anyone to write the checks.

A jury found defendant guilty as charged. The trial court sentenced defendant to a minimum term of nine months and a maximum term of eleven months and a minimum term of eleven months and a maximum term of fourteen months imprisonment, to run consecutively.

The trial court suspended the second sentence and placed defendant on 24 months supervised probation. Defendant appeals.

Defendant contends the trial court erred by denying his motion to dismiss based on insufficiency of the evidence. The standard for ruling on a motion to dismiss "is whether there is substantial evidence (1) of each essential element of the offense charged and (2) that defendant is the perpetrator of the offense." *State v. Lynch*, 327 N.C. 210, 215, 393 S.E.2d 811, 814 (1990). Substantial evidence is that relevant evidence which a reasonable mind might accept as adequate to support a conclusion. *State v. Patterson*, 335 N.C. 437, 449-50, 439 S.E.2d 578, 585 (1994). In ruling on a motion to dismiss, the trial court must consider all of the evidence in the light most favorable to the State, and the State is entitled to all reasonable inferences which may be drawn from the evidence. *State v. Davis*, 130 N.C. App. 675, 679, 505 S.E.2d 138, 141 (1998). "Any contradictions or discrepancies arising from the evidence are properly left for the jury to resolve and do not warrant dismissal." *State v. King*, 343 N.C. 29, 36, 468 S.E.2d 232, 237 (1996).

To prevail on the charge against defendant in this case, the State must present substantial evidence of: "(1) a false representation of a past or subsisting fact or a future fulfillment or event, (2) which is calculated and intended to deceive, (3) which does in fact deceive, and (4) by which the defendant obtains or attempts to obtain anything of value from another person." *State v. Compton*, 90 N.C. App. 101, 103, 367 S.E.2d 353, 354

(1988). Defendant argues the State failed to present sufficient evidence that he intended to deceive Waccamaw Bank and that he obtained anything of value as a result of a false representation. We disagree.

In deriving intent, this Court has stated that, '[a] person's intent is seldom provable by direct evidence, and must usually be shown through circumstantial evidence.' '[I]n determining the presence or absence of the element of intent, the jury may consider the acts and conduct of the defendant and the general circumstances existing at the time of the alleged commission of the offense charged. . . .'

State v. Walston, 140 N.C. App. 327, 332, 536 S.E.2d 630, 633-34 (2000) (quoting *State v. Compton*, 90 N.C. App. at 104, 367 S.E.2d at 35; quoting *State v. Hines*, 54 N.C. App. 529, 533, 284 S.E.2d 164, 167 (1981)). N.C.G.S. § 14-100 (2001) describes value as, ". . . any money, goods, property, services, chose in action, or other thing of value. . . ."

Here, the State presented evidence that defendant obtained two checks from a man he did not know; that defendant paid \$100 in cash for the \$250 check and \$150 in cash for the \$270 check; that he obtained the checks to "make a profit;" and that defendant cashed the checks at Waccamaw Bank. Considering the evidence in the light most favorable to the State, a jury could reasonably infer from defendant's actions that defendant made a false representation with the intent to deceive Waccamaw Bank and further that defendant presented the checks to the bank in return for cash. Accordingly, the trial court properly denied defendant's motion to dismiss.

No error.

Judges WALKER and THOMAS concur.

Report per Rule 30(e).