

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2003

JEROME MULLINS,

\*\*

Appellant,

\*\* CASE NO. 3D03-78

vs.

\*\*

THE STATE OF FLORIDA,

\*\*

Appellee.

\*\* LOWER TRIBUNAL  
CASE NO. 01-35375

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Opinion filed October 8, 2003.

An appeal from the Circuit Court of Miami-Dade County, Roberto M. Pineiro, Judge.

Bennett H. Brummer, Public Defender, and Lisa Walsh, Assistant Public Defender, for appellant.

Charles J. Crist, Jr., Attorney General, and John D. Barker, Assistant Attorney General, for appellee.

Before GODERICH, GREEN, and FLETCHER, JJ.

FLETCHER, Judge.

Jerome Mullins was charged with one count of possession of a forged bill in violation of section 831.11, Florida Statutes (2002).<sup>1</sup> This section reads:

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A second count against Mullins was nol prossed.

"Whoever brings into this state or has in his or her possession a false, forged, or counterfeit bill, check, draft, or note in the similitude of the bills or notes payable to the bearer thereof or to the order of any person issued by or for any bank or banking company established in this state, or within the United States, or any foreign province, state or government, with intent to utter and pass the same or to render the same current as true, knowing the same to be false, forged, or counterfeit, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084."

At trial, the state presented the bills in question and the jury determined that the bills met the statutory definition of "false, forged, or counterfeit."<sup>2</sup> However, there is no record evidence of Mullins' intent to pass the false bills. The record shows only that Mullins made no admission that he intended to pass the bills, and that the state's witness (the arresting officer) was unable to testify as to Mullins' intent. Because there is nothing in the record to support the element of intent necessary for violation of section 831.11, Mullins' motion for judgment of acquittal should have been granted. See, e.g., Butler v. State, 715 So. 2d 339 (Fla. 4<sup>th</sup> DCA 1998) (in order to present a prima facie

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The evidence consisted of the four bills which were in Mullins' possession at the time of his arrest: a legitimate one-dollar bill, a legitimate one-hundred dollar bill, a printer-copied, plastic laminated, one-sided one-hundred dollar bill (with the same serial number as the legitimate bill), and a printer-copied one-sided one dollar note with a color bar chart on the opposite side.

case the state must prove each and every element of the offense beyond a reasonable doubt; when the state fails to meet this burden the case should not be submitted to the jury, and a judgment of acquittal should be granted). We therefore reverse, with directions that Mullins' conviction and sentence in case number 01-35375 be vacated.

Reversed and remanded.