



## STATEMENT OF THE CASE

Heather D. Hillebrand appeals her convictions, after a bench trial, of forgery, a class C felony.<sup>1</sup>

We affirm.

### ISSUE

Whether sufficient evidence supports Hillebrand's convictions.

### FACTS

On December 1, 2005, Donald Mawhorter's vehicle was burglarized and his checkbook for his previous company, Chopper's Grille, was stolen. Mawhorter was unaware that the checkbook was stolen and failed to inform the police or his financial institution of the theft at that time.

On December 5, 2005, Hillebrand entered a National City Bank ("NCB") and opened a checking account by presenting check number 471 ("Check No. 471"), drawn on the Chopper's Grille account and made payable to Hillebrand in the amount of \$325. Hillebrand deposited \$225 and received \$100 in cash.

The next day, Hillebrand returned to NCB and withdrew \$198.67 from her checking account. She then deposited check number 468 ("Check No. 468"), drawn on Mawhorter's Chopper's Grille account and payable to Hillebrand in the amount of \$400. Hillebrand deposited \$300 into her checking account and received \$100 in cash, leaving an account balance of \$326.33. At 4:45 p.m. that same afternoon, Hillebrand returned to NCB and withdrew \$26.

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<sup>1</sup> Ind. Code § 35-43-5-2.

On December 7, 2005, Hillebrand returned to NCB and withdrew \$300 from her checking account, leaving an account balance of \$0.33. Hillebrand made no further transactions to the account after December 7, 2005.

Around December 19, 2005, Mawhorter discovered that Check Nos. 468 and 471 from his Chopper's Grille account had been fraudulently endorsed. Mawhorter immediately notified the police and made a report. Mawhorter did not sign or authorize the signature on Check Nos. 468 and 471 from his Chopper's Grille account.

On April 12, 2006, the State charged Hillebrand with two counts of class C felony forgery based on the endorsement of Checks Nos. 468 and 471. Hillebrand waived her right to a jury, and a bench trial commenced on March 29, 2007.

The trial court heard testimony of the foregoing facts. In addition, Patrick Doyle, a security coordinator for Teacher's Credit Union ("TCU"), testified that Hillebrand had an active bank account at TCU during December, 2005. Further, Doyle testified that Hillebrand was formerly employed by TCU as a bank teller and had undergone training in check fraud, counterfeiting, and stolen checks. Also, Hillebrand confessed that she had endorsed the checks in question. However, Hillebrand argued that her former roommate, Sonya Brook, gave her the checks for rent and living expenses. Hillebrand testified that Brook told her that the checks were from Brook's father's account. Accordingly, Hillebrand claimed she was misled and had no intention of defrauding Mawhorter. Brook could not be located and was not present at Hillebrand's trial. On June 29, 2007, the trial court found Hillebrand guilty of both counts of class C felony forgery.

## DECISION

Hillebrand argues that the evidence presented at trial was insufficient to support her convictions. We disagree.

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if any inference may reasonably draw from it to support the verdict.

*Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007) (quotations and citations omitted).

Pursuant to Indiana Code section 35-43-5-2(b), a person who, with intent to defraud, makes or utters a written instrument in such a manner that it purports to have been made either by another person; at another time; with different provisions; or by authority of one who did not give authority; commits forgery, a class C felony. Hillebrand argues that the evidence does not show intent to defraud Mawhorter.

Intent to defraud, for purposes of the offense of forgery, may be proven by circumstantial evidence alone. *Scott v. State*, 867 N.E.2d 690, 695 (Ind. Ct. App. 2007). Intent is a mental function and, absent an admission, it must be determined by the fact-finder from a consideration of the defendant's conduct when presenting the instrument for acceptance and the natural and usual consequences of such conduct. *Long v. State*, 867 N.E.2d 606, 614 (Ind. Ct. App. 2007) (citing *Duren v. State*, 720 N.E.2d 1198, 1202 (Ind. Ct. App. 1999)). The trier of fact is entitled to determine which version of the

incident to credit. *Reyburn v. State*, 737 N.E.2d 1169, 1171 (Ind. Ct. App. 2000) (citation omitted).

In the instant action, there is sufficient circumstantial evidence from which a reasonable fact-finder could construe intent to defraud Mawhorter. Hillebrand admitted to cashing and depositing the checks in question beginning just four days after they were stolen from Mawhorter's vehicle. Although Hillebrand had an existing banking account at TCU, she opened a new account at NCB specifically for these transactions. After Hillebrand had disposed of all but thirty-three cents of the stolen funds, she made no other transactions in her new account. All of the fraudulent transactions were performed in a succinct three-day period. Hillebrand testified that she thought the checks were from the father of her former roommate and friend, Sonya Brook. However, Hillebrand knew that Sonya's last name was Brook and that the checks she endorsed were purportedly written by a Donald Mawhorter doing business as Chopper's Grille. These circumstances in their totality provide sufficient evidence to prove intent to defraud.

Hillebrand's claim, that Brook gave her the checks in question and that she did not intend to defraud Mawhorter, amounts to an invitation to judge her credibility and reweigh the evidence, which we will not do. *Grim v. State*, 797 N.E.2d 825, 830 (Ind. Ct. App. 2003). The trial court is in a better position to weigh evidence, assess the credibility of witnesses, and draw inferences. *Moshenek v. State*, 868 N.E.2d 419, 424 (Ind. 2007) (citing *Fisher v. State*, 810 N.E.2d 674, 679 (Ind. 2004)). Thus, we conclude that the State's evidence was sufficient to support Hillebrand's convictions for forgery as a class C felony.

Affirmed.

NAJAM, J., and BROWN, J., concur.