

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN A. HOSKO,

Defendant-Appellant.

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UNPUBLISHED

April 25, 2000

No. 211151

Recorder's Court

LC No. 97-502009

Before: Collins, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction after a jury trial on two counts of non-sufficient funds checks over \$200, MCL 750.131(3)(c); MSA 28.326(3)(c). We affirm.

Defendant is a used car dealer who routinely purchased used vehicles for resale at auctions conducted by complainant. Defendant participated in a bridge purchasing program, under which he was allowed twenty-one days to pay for vehicles purchased at auction. Defendant left two blank checks with complainant's personnel and was allowed to take vehicles. When complainant insisted on payment, defendant authorized an employee of complainant to complete the blank checks and deposit them. The funds in defendant's account were insufficient to cover either of the checks.

Defendant argues that the trial court erred in denying his motion for directed verdict where there was insufficient evidence to establish he had the intent to defraud. We disagree.

Due process commands acquittal when insufficient evidence was presented to justify a rational trier of fact in finding guilt beyond a reasonable doubt. *People v Hampton*, 407 Mich 354, 366; 285 NW2d 284 (1979). If the evidence presented by the prosecution in the light most favorable to the prosecution is insufficient to justify a reasonable trier of fact to find guilt beyond a reasonable doubt, a directed verdict must be entered. *Id.*; *People v Lemmon*, 456 Mich 625, 634; 576 NW2d 129 (1998).

The elements of an insufficient funds charge are (1) an intent to defraud, (2) the drawing of a check for the payment of money upon a bank, and (3) knowledge by the drawer of the check that the

bank account has insufficient funds or credit for the payment of the check. *People v Chappelle*, 114 Mich App 364, 370; 319 NW2d 584 (1982). Defendant asserts that he lacked the intent to defraud where he informed complainant that there were insufficient funds to cover the checks before to their presentment.

Sufficient evidence was presented to defeat defendant's directed verdict motion. Complainant's employee testified that defendant did not tell her that there were insufficient funds in the account to cover the checks and that defendant authorized the presentation of the checks as prepared. Viewed in a light most favorable to plaintiff, the evidence was sufficient to establish an intent to defraud.

Affirmed.

/s/ Jeffrey G. Collins

/s/ Janet T. Neff

/s/ Michael R. Smolenski