

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THERESA HATCHER,

Defendant-Appellant.

UNPUBLISHED

December 27, 2002

No. 236014

Wayne Circuit Court

LC No. 00-005615-01

Before: Hood, P.J., and Smolenski and Kelly, JJ.

MEMORANDUM.

Defendant appeals as of right from her conviction, following a bench trial, of embezzlement of over \$1,000 by an agent, MCL 750.174(4). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

In her sole issue on appeal, defendant argues that the trial court erred by admitting into evidence a copy of a microfilm copy of a check. While we review a trial court's decision whether to admit evidence for an abuse of discretion, interpretation of a rule of evidence is addressed de novo as a question of law in the same manner as the examination of the meaning of a court rule or statute. *Waknin v Chamberlain*, ___ Mich ___; 653 NW2d 176 (Docket No. 120299, decided November 19, 2002), slip op, p 4. MRE 1004(1) states:

The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if –

(1) *Originals lost or destroyed*. All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith.

In this case, the undisputed testimony of a bank employee indicated that the original check was destroyed in accordance with the bank's routine destruction of relatively older records. Because the destruction of the original check was not conducted by the prosecution or any other governmental entity, MRE 1004(1) plainly allowed the admission of the copy of the check at

issue to show the contents of the original check. Thus, regardless of the soundness of its rationale, the trial court did not abuse its discretion by admitting the evidence at issue.

Affirmed.

/s/ Harold Hood
/s/ Michael R. Smolenski
/s/ Kirsten Frank Kelly