STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANNY STOKES,

Defendant-Appellant.

UNPUBLISHED
September 24, 2009

No. 281858
Wayne Circuit Court
LC No. 07-007262-FH

Before: Murray, P.J., and Gleicher and M. J. Kelly, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of three counts of uttering and publishing, MCL 750.249, three counts of forgery, MCL 750.248, identity theft, MCL 445.65, false pretenses ($20,000 or more), MCL 750.218(5)(a), second-degree money laundering, MCL 750.411n, and conspiracy to commit a legal act in an illegal manner, MCL 750.157a. The trial court sentenced defendant to 2 to 14 years' imprisonment for each of the three uttering and publishing convictions, 2 to 14 years' imprisonment for each of the three forgery convictions, two to five years' imprisonment for the identity theft conviction, three to ten years' imprisonment for the false pretenses conviction, three to ten years' imprisonment for the second-degree money laundering conviction, and two to five years' imprisonment for the conspiracy conviction. Because we conclude that there were no errors warranting relief, we affirm.

This case arises out of the fraudulent sale of vacant real property owned by Vanna DeDona. Evidence indicated that Cynthia Larkins, who purported to act under the authority of a power of attorney from DeDona, sold the property to Anthony Austin. Sandra Vinson, who worked for a title company, handled the sale. Vinson testified that she gave Larkins three checks at the settlement that totaled more than $107,000 in exchange for the property. Vinson also testified that Toy Fletcher, who worked for the mortgage broker, was at the closing. Fletcher testified that defendant referred Austin to her company for his mortgage application. She stated that there was a problem with Austin's mortgage application because Austin did not have a job. Fletcher testified that she informed defendant that she would "resolve" the problem, which she did by giving Austin a fictitious job at a store she owned. She further testified that, after she gave Austin this fictitious job, he showed up with a W-2 form listing her business as his employer. Fletcher testified that she did not make the W-2 form. After the closing, DeDona learned of the unauthorized sale and referred the matter to the police.

On appeal, defendant argues that the prosecution presented insufficient evidence to convict him of the charged crimes. Specifically, defendant contends that there is no evidence that he either personally participated in the crimes underlying the fraudulent sale of DeDona's property or that he aided and abetted another in committing those crimes.

When examining a challenge to the sufficiency of the evidence, this Court reviews the entire record de novo and, viewing the evidence in the light most favorable to the prosecution, determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v McKinney*, 258 Mich App 157, 165; 670 NW2d 254 (2003). It is for the trier of fact to decide what inferences can be fairly drawn from the evidence and to judge the weight it accords to those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). Conflicts in the evidence are resolved in the prosecution's favor. *People v Fletcher*, 260 Mich App 531, 561-562; 679 NW2d 127 (2004).

The first of defendant's three uttering and publishing convictions arose from the creation and execution of the warranty deed purporting to convey the property at issue from DeDona to Austin. A person is guilty of the crime of uttering and publishing if that person knows that an instrument is false, intends to defraud, and presents the forged instrument for payment. *People v Shively*, 230 Mich App 626, 631; 584 NW2d 740 (1998).

Larkins testified that defendant came to her home and presented her "with the proposition" regarding the transaction. She stated that she first received the power of attorney when she arrived at the mortgage company and that she signed the documents at the closing in exchange for $2,500. She testified that defendant was the person who paid her for her participation. Larkins also testified that she did not know DeDona—the woman who purportedly gave Larkins the power to represent her at the closing. DeDona also testified that she did not draft the power of attorney, did not sign the power of attorney or grant anybody the power of attorney to sell her property, and did not meet Larkins prior to defendant's prosecution. Further, Vinson testified that Larkins actually executed the warranty deed in her presence.

This evidence establishes that defendant arranged for Larkins to act as the attorney-in-fact for DeDona at the closing. Further, given the evidence that DeDona had no knowledge of the transaction and did not actually grant anyone the authority to sell her property, a reasonable jury could conclude that defendant procured Larkins' services with the knowledge that she did not have any actually authority. Hence, a reasonable jury could conclude that defendant aided and abetted the uttering and publishing of the warranty deed, which defendant knew was false, by arranging for Larkins to participate in the deed's execution and that he acted with the intent to fraudulently procure funds from the mortgage lender or with the knowledge that Larkins intended to fraudulently procure the funds. *People v Robinson*, 475 Mich 1, 6; 715 NW2d 44 (2006) (noting that a defendant aids or abets the commission of a crime by another when the defendant performs acts that encourage or assist the commission of the crime and either intends the commission of the crime or had knowledge that the other intended its commission at the time the defendant assisted or encouraged the other person); see also *Shively*, *supra* at 630-631 (noting that the defendant committed uttering and publishing by forging a signature on a deed). Accordingly, the prosecution presented sufficient evidence for a rational trier of fact to conclude, beyond a reasonable doubt, that defendant aided and abetted the warranty deed's uttering and publishing.

Defendant's second and third uttering and publishing convictions arose from the endorsement of two checks representing more than $100,000 of the proceeds from the sale of the real property to the order of Uniform Investment Trust. Wayne County Sheriff's Deputy Sergeant Robert Hogg testified that two of the checks presented at the closing were endorsed to the order of the "Uniform Investment Trust, LLC" and deposited into defendant's business bank account. The evidence indicated that the checks were made out to DeDona, yet DeDona never actually sold her house and never engaged in any business with the participants in the sale or defendant and his company. Further, Fletcher testified that defendant referred Austin to her mortgage company for the sale of DeDona's property. From this testimony and the testimony concerning Larkins' role in the transaction, a reasonable jury could conclude that defendant actually arranged for the fraudulent sale of the property. Indeed, this evidence strongly suggests that defendant had a role in arranging for both a fraudulent seller (Larkins) and a fraudulent buyer (Austin). Testimony also established that defendant ultimately ended up with the checks and that the checks were endorsed over to his business. Although it was defendant's theory of the case that he too was a victim of Larkins' fraud, a reasonable jury could conclude that Larkins was truthful when she described defendant's role in procuring her services and, from this, could further conclude that defendant aided and abetted the fraudulent procurement of the checks. See *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992) (noting that, in reviewing sufficiency of the evidence claims, this Court will not interfere with the fact-finder's role in weighing the evidence and judging the credibility of witnesses). Moreover, the jury could also reasonably determine DeDona had not authorized the endorsement of the checks and that defendant either fraudulently endorsed them over to his business or aided and abetted another's fraudulent endorsement to his business. *Shively*, *supra* at 631. Thus, we conclude that the prosecution presented legally sufficient evidence for a rational trier of fact to conclude, beyond a reasonable doubt, that defendant committed two counts of uttering and publishing based on the endorsement and deposit of the checks.

Defendant's three forgery convictions are related to the creation of the warranty deed and the endorsement of the two checks already mentioned. And this same evidence supports the conclusion that defendant aided and abetted the forgery of the deed and the endorsements. See *People v Kaczorowski*, 190 Mich App 165, 171; 475 NW2d 861 (1991) (noting that forgery is an act that results in the false making or alteration of an instrument and a concurrent intent to defraud or injure.). Consequently, we conclude that the prosecution presented sufficient evidence to support these convictions as well.

This same evidence also connects defendant to the use of the documents, which further testimony established contained DeDona's "personal identifying information," to fraudulently obtain funds from the mortgage lender. Hence, there was sufficient evidence to establish that defendant aided and abetted the crimes of identity theft and false pretenses. See MCL 445.65(1) (making it a crime to, with the intent to defraud, "use or attempt to use" the "personal identifying information of another" to obtain money); *People v Jory*, 443 Mich 403, 412; 505 NW2d 228 (1993) (noting that taking by false pretenses consists of a false representation as to an existing fact, knowledge of the falsity of the representation, use of the false representation with an intent to deceive, and detrimental reliance on the false representation); MCL 750.218(5)(a).

There was also sufficient evidence to support defendant's conviction for money laundering. In relevant part, MCL 750.411k provides:

> (1) A person shall not knowingly receive or acquire a monetary instrument or other property that constitutes the proceeds or substituted proceeds of a specified criminal offense with prior actual knowledge of both of the following:
>
> (a) The monetary instrument or other property represents the proceeds or substituted proceeds of a criminal offense.
>
> (b) The receipt or acquisition of the proceeds or substituted proceeds meets 1 or more of the following criteria:
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> * * *
>
> (ii) It is designed, in whole or in part, to conceal or disguise the nature, location, source, ownership, or control of the proceeds or substituted proceeds of the specified criminal offense . . . .
>
> (2) A person shall not knowingly conduct, attempt to conduct, or participate in conducting or attempting to conduct a financial transaction involving a monetary instrument or other property that constitutes the proceeds or substituted proceeds of a specified criminal offense with prior actual knowledge of both of the following:
>
> (a) The monetary instrument or other property represents the proceeds or substituted proceeds of a criminal offense.
>
> (b) The financial transaction meets 1 or more of the following criteria:
>
> * * *
>
> (ii) It is designed, in whole or in part, to conceal or disguise the nature, location, source, ownership, or control of the proceeds or substituted proceeds of the specified criminal offense . . . .

In relevant part, a person who violates MCL 750.411k is guilty of second-degree money laundering "if the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation is $10,000.00 or more" and the violation is committed with the intent to conceal or disguise "the nature, location, source, ownership, or control of the proceeds or substituted proceeds of the specified criminal offense or avoid a transaction reporting requirement under state or federal law." MCL 750.411n.

This charge was based on defendant's alleged concealment of the source of the money deposited in Uniform Investment Trusts's account. Specifically, the prosecution alleged that defendant tried to conceal the fact that the checks were the proceeds of the fraudulent transfer of DeDona's property by attributing the deposit of the checks to the sale of two different properties owned by defendant to DeDona. At trial, Hogg testified that two of the checks presented at the closing were deposited into defendant's business bank account, and were endorsed, "Paid to the order of the Uniform Investment Trust, LLC." According to Hogg, defendant explained that the proceeds were deposited into his business account because Uniform Investment Trust had sold

DeDona the two properties. However, DeDona testified that she never intended to transfer her property and denied that she purchased or authorized the purchase of any property from defendant or his business. Likewise, Hogg testified that a title search revealed that defendant's business sold the properties to a different business years before the purported sale to DeDona. He also testified that the properties were in deplorable condition: one was burned and had a collapsed roof and the other was missing doors, siding and windows. From this evidence, along with the evidence of the role defendant played in arranging the fraudulent sale of DeDona's property, a rational trier of fact could infer that defendant did not actually sell these properties in exchange for the checks. Rather, a reasonable jury could conclude that, in causing the endorsement of the checks to Uniform Investment Trust and depositing the proceeds into the Uniform Investment Trust account, defendant intended to disguise the fact that the checks were the proceeds of the fraudulent sale of DeDona's property.

Finally, there was also sufficient evidence to support defendant's conspiracy conviction. In order to convict a defendant of conspiracy, the prosecution is required to present "proof of an agreement between two or more persons and proof of the specific intent to combine with others to do what is unlawful." *People v Jemison*, 187 Mich App 90, 93; 466 NW2d 378 (1991). The prosecution alleged that defendant conspired with others to commit either false pretenses or second-degree money laundering or both. Given the evidence that defendant helped arrange the fraudulent transaction at issue and ultimately received the proceeds, we conclude that there was sufficient evidence from which a rational jury could find that defendant conspired with Larkins in order to commit the crime of second-degree money laundering and false pretenses.

Affirmed.

/s/ Christopher M. Murray
/s/ Elizabeth L. Gleicher
/s/ Michael J. Kelly