

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
March 14, 2013

v

ALI UNINAN ALSHAMARI,
Defendant-Appellant.

No. 306854
Wayne Circuit Court
LC No. 10-009395-FH

Before: GLEICHER, P.J., and SAWYER and FORT HOOD, JJ.

MEMORANDUM.

Following a bench trial, the circuit court convicted defendant Ali Uninan Alshamari of one count of knowing possession of a false insurance certificate in violation of MCL 257.329(1).¹ The prosecutor presented sufficient evidence from which the circuit court could infer defendant’s knowledge that the certificate was false. And the record shows that defendant’s trial counsel fully and accurately advised him of a potential plea bargain and of the immigration consequences of being convicted of the charged felony offense. We affirm.

When reviewing a challenge to the sufficiency of the evidence, we must take the evidence in the light most favorable to the prosecutor to determine if a rational fact finder could determine that the prosecutor proved the elements of the charged offense beyond a reasonable doubt. *People v Tombs*, 472 Mich 446, 459; 697 NW2d 494 (2005). “[B]ecause it can be difficult to prove a defendant’s state of mind,” the fact-finder’s resolution of such issues can be supported by “minimal circumstantial evidence” and may be inferred from that evidence. *People v Kanaan*, 278 Mich App 594, 622; 751 NW2d 57 (2008). It is the fact-finder’s sole province to weigh the evidence and adjudge witness credibility and we may not second guess those considerations. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), mod 441 Mich 1201 (1992).

The prosecutor presented evidence that the State Farm no-fault insurance policy presented by defendant during his 2010 annual taxi cab registration process was in fact false. Given the circumstances under which the policy was purchased, the court could determine

¹ The court acquitted defendant of a second count.

beyond a reasonable doubt that defendant knew the policy was false. The supposed State Farm policy cost only \$450 for six months of coverage, while the policy covering defendant's other cab would have been \$6,000 for the same period. Defendant secured the policy through a paper advertisement left at a local gas station and his employee met the "insurance agent" at a restaurant only one hour before the inspection. The trial court could determine from this evidence that defendant was well aware that he was engaging in a bogus insurance transaction and we may not second-guess this credibility assessment.

Defendant also has not overcome the strong presumption that his trial counsel provided constitutionally effective assistance. *Strickland v Washington*, 466 US 668, 689; 104 S Ct 2052; 80 L Ed 2d 674 (1984). A criminal defendant's ineffective assistance claim "may be based on counsel's failure to properly inform the defendant of the consequences of accepting or rejecting a plea offer." *People v Douglas*, 296 Mich App 186, 205; 817 NE2d 640 (2012), citing *Hill v Lockhart*, 474 US 52, 57-58; 106 S Ct 366; 88 L Ed 2d 203 (1985). One of the consequences of which counsel must warn his client is the potential effect on a noncitizen's immigration status. *Padilla v Kentucky*, ___ US ___; 130 S Ct 1473, 1483; 176 L Ed 2d 284 (2010). Defendant is an Iraqi citizen who is a legal alien living in the United States and there is a possibility that his felony conviction could impact his immigration status. Yet, contrary to defendant's challenge, the evidence presented at the hearing on defendant's motion for a new trial establishes that his trial counsel did fully inform him of the details of a potential plea deal, that he would likely be convicted of one count at trial, and that the felony conviction could affect his immigration status. Counsel asserted that defendant refused to consider the plea bargain and insisted on proceeding to trial. Based on this evidence, the trial court could determine that counsel provided effective assistance and that defendant was not entitled to a new trial.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ David H. Sawyer
/s/ Karen M. Fort Hood