

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES PATRICK CRATTY,

Defendant-Appellant.

UNPUBLISHED

March 12, 2013

No. 309492

Eaton Circuit Court

LC No. 10-020234-FH

Before: MURRAY, P.J., and MARKEY and WHITBECK, JJ.

PER CURIAM.

Defendant Charles Cratty appeals as of right his conviction, following a jury trial, of two counts of filing false Uniform Commercial Code (UCC) financing statements.¹ We affirm.

I. FACTS

A. BACKGROUND FACTS

In April 2008, Nancy Ashenhurst-Gallina—Cratty’s sister—filed a civil complaint in a federal court, alleging that the defendants deprived her of due process by wrongfully foreclosing on her house. Ashenhurst-Gallina named Judge Randy Kalmbach and other judges, lawyers, and court officers as defendants, and added Cratty as a plaintiff. In August 2008, the federal court dismissed the complaint.

Between October 2008 and February 2009, Cratty filed several financing statements at the Eaton County UCC office, listing as debtors the defendants from the federal suit. On October 23, 2008, Cratty stated on one financing statement total collateral of \$2,890,000, as well as statements that included his sister’s house, “illegal foreclosure,” and “fraudulent eviction.” On January 7, 2009, Cratty amended the financing statement to state that each individual debtor “failed to comply with terms of written contract [sic]” and were in default. Cratty also filed a third amendment, listing as collateral “John R. Gillis Jr. . . . Perpetrating Mortgage Fraud by hearing [a] case.” On February 2, 2009, Cratty filed a financing statement that listed his sister as

¹ MCL 440.9501(6).

the creditor, and stated as collateral that the debtors failed to comply with a contract and were in default for various quantities of “one ounce gold American eagles.” And on February 11, 2009, Cratty filed a financing statement that listed his sister as the creditor and stated as collateral \$292,389 and a property in Wayne County.

B. WAIVER HEARINGS

At the pretrial proceeding on October 22, 2010, Cratty moved the trial court to discharge his attorney. The trial court asked Cratty if he intended to represent himself, and Cratty responded “yes.” During a lengthy exchange, the trial court warned Cratty that he would be at a disadvantage without an attorney, that if he acted as his own attorney he would “be bound by the same rules as an attorney would,” and explained that it could appoint him other counsel, he could hire counsel, or he could represent himself.

At the next pretrial proceeding on November 19, 2010, Cratty appeared without counsel. Cratty stated that he had not wanted counsel in the first place. The trial court again advised Cratty of the risks of self-representation, and also advised him that he was charged with a felony that included a possible maximum penalty of five years’ imprisonment. Cratty again indicated that he wanted to represent himself. At a third pretrial proceeding on January 20, 2011, the trial court again asked Cratty if he wanted to continue to represent himself. Cratty responded, “Yeah, I don’t wish counsel at this time.” The trial court again cautioned Cratty against representing himself.

C. TRIAL

On the first day of trial, the trial court introduced Cratty as representing himself.

Sherri DeMarco, a business analyst for the Secretary of State’s UCC office, testified that a financing statement’s statement of collateral usually contains something like a tractor, crops, livestock, or a business machine. Judge Kalmbach testified that he was a defendant in Cratty’s federal civil suit, and was named as a “debtor” on the financing statements. He testified that he did not have any personal or business contacts with Cratty. On cross-examination, when asked whether he had challenged the UCC financing statements, Judge Kalmbach testified that he challenged them as fraudulent because he did not owe Cratty any money, and the state terminated the financing statement. He also testified that he presided over a parental kidnapping case against Ashenhurst-Gallina, and set her bond at about \$3,000,000 because he viewed her as a flight risk.

Sally Bashore, an employee of the Eaton County UCC office, testified that the office accepts financing statements as long as they are complete and does not investigate the information’s accuracy. DeMarco testified that UCC financing statements are part of the public record and financial institutions view them to determine whether someone has a secured interest in a piece of property. DeMarco testified that the UCC laws changed in 2009,² and that if Cratty

² See MCL 440.9501a, added by 2008 PA 381 (concerning fraudulent financing statements).

had attempted to file the financing statement after 2009, the UCC office would have rejected the statements as clearly fraudulent. DeMarco testified that the office would not have rejected the financing statement in 2008 because the office will only reject a financing statement that the law mandates it to reject.

Cratty attempted to call Clifford Brookins as a witness to explain the process of filing a UCC statement. The trial court allowed Cratty to attempt to establish a foundation for Brookins' testimony outside the presence of the jury, but excluded Brookins' testimony on the basis that he would not clarify any issue.

During deliberations, the jury asked the trial court for copies of the current and previous UCC filing laws and a definition of "fraudulent financing statement." After a conference with Cratty and the prosecutor, the trial court instructed the jury that the UCC filing laws were not in the evidence, and that the jury should use common usage to decide the meaning of "fraudulent financing statement." The jury found Cratty guilty of two counts of filing a false financing statement.

II. WAIVER OF COUNSEL

A. STANDARD OF REVIEW

We review de novo whether a defendant has waived his Sixth Amendment right to be represented by counsel, but review for clear error the trial court's factual findings regarding a knowing and intelligent waiver.³ A finding is clearly erroneous if, although there is evidence to support it, this Court is definitely and firmly convinced that the trial court made a mistake.⁴

B. LEGAL STANDARDS

A defendant has a constitutional right to be represented by counsel at all critical stages in a criminal proceeding.⁵ But the defendant also has a right under the Michigan Constitution to represent him- or herself, and the trial court cannot force a lawyer on a defendant who wishes to exercise that right.⁶ Before the trial court may grant a defendant's request for self-representation, it must (1) determine whether the defendant's request is unequivocal; (2) ensure that the defendant's request is knowing, intelligent, and voluntary; (3) ensure that the defendant's self-representation will not disrupt, burden, or inconvenience the proceedings; and (4) advise the

³ *People v Williams*, 470 Mich 634, 640; 683 NW2d 597 (2004).

⁴ *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012).

⁵ Const 1963, art 1, § 13; *People v Adkins (After Remand)*, 452 Mich 702, 720; 551 NW2d 108 (1996).

⁶ Const 1963, art 1, § 13; *Williams*, 470 Mich at 641.

defendant of the charge, the maximum possible prison sentence, any mandatory minimum sentence, and the risks of self-representation.⁷

C. APPLYING THE STANDARDS

Cratty contends that his waiver was equivocal. We disagree. A defendant's waiver is not equivocal when he or she clearly and explicitly chooses self-representation.⁸ But a defendant's waiver is equivocal if the defendant vacillated between wanting to represent him- or herself and wanting to be represented by counsel.⁹

Here, Cratty clearly indicated that he wished to represent himself. The trial court clearly asked Cratty if he wished to represent himself, and he responded "Yes." Over the course of multiple pretrial hearings, the trial court reaffirmed that Cratty wanted to represent himself. Cratty's repeated statements that he wished to represent himself, and his multiple rejections of the trial court's offers to appoint counsel for him, indicate that Cratty explicitly chose self-representation, despite Cratty's occasional explanations that he wanted to represent himself "at this time" but was "reserving his right" to an attorney. We conclude that Cratty unequivocally waived his rights to the assistance of counsel.

Cratty also contends that the trial court did not comply with MCR 6.005, and that his waiver was not knowing, intelligent, and voluntary. The trial court should engage in "a methodical assessment of the wisdom of self-representation by the defendant" before determining that the defendant's waiver is knowing, intelligent, and voluntary.¹⁰ A defendant's waiver is effective when the trial court fully apprises the defendant of the risks of self-representation, and he knowingly and voluntarily accepts them.¹¹ Further, MCR 6.005(D) requires the trial court to advise the defendant of the charge, the maximum possible prison sentence, any mandatory minimum sentence required by law, and the risks of self-representation.

Cratty briefly asserts that the trial court's failure to reaffirm his waiver under MCR 6.005(E) rendered his waiver involuntary, but does not provide authority for this assertion. We note that not every minor failure of the trial court to comply with waiver-of-counsel procedures results in an involuntary waiver or requires reversal.¹² A defendant who fails to provide

⁷ *Id.* at 642-643.

⁸ *Adkins (After Remand)*, 452 Mich at 721, 729; *People v Dennany*, 445 Mich 412, 444; 519 NW2d 128 (1994).

⁹ *Id.*

¹⁰ *Adkins (After Remand)*, 452 Mich at 721.

¹¹ *Williams*, 470 Mich at 645.

¹² See *Adkins (After Remand)*, 452 Mich at 726.

authority for his or her assertions has abandoned an issue on appeal.¹³ We decline to consider this abandoned issue.

Here, on repeated occasions, the trial court warned Cratty against representing himself and advised him to seek counsel, and Cratty responded that he did not want counsel to represent him. At the October 22, 2010 pretrial hearing, the trial court further stated that it would require Cratty to follow the same rules of procedure in which lawyers are trained, that he would be less likely to effectively represent himself, and that it thought he should acquire counsel. At the November 19, 2010 pretrial hearing, the trial court informed Cratty that he was charged with a felony that carried a maximum possible sentence of five years' imprisonment. At the January 20, 2011, pretrial conference, the trial court again warned Cratty of the importance of counsel, and cautioned him against representing himself.

From these exchanges, the record clearly reflects that the trial court apprised Cratty of the risks of self-representation, which he knowingly chose to accept. These same exchanges establish that the trial court substantially complied with the requirements of MCR 6.005(D). We conclude that the trial court did not err when it determined that Cratty's waiver was knowing, intelligent, and voluntary.

III. EVIDENTIARY ISSUES

A. STANDARD OF REVIEW AND ISSUE PRESERVATION

To preserve an issue, the appellant must challenge it before the trial court.¹⁴ Cratty did not challenge the admission of the UCC documents or references to the federal suit; thus, these issues are not preserved. We review unpreserved issues for plain error affecting a party's substantial rights.¹⁵ An error is plain if it is clear or obvious, and the error affected the defendant's substantial rights if it affected the outcome of the lower court proceedings.¹⁶

However, Cratty did demonstrate the type of testimony that Brookings would have offered had the trial court allowed him to testify as a witness. An evidentiary issue is preserved when the proponent made the substance of the excluded evidence known to the court.¹⁷ This Court reviews for an abuse of discretion a preserved challenge to an evidentiary ruling, but reviews de novo the preliminary questions of law surrounding the admission of evidence, such as

¹³ *People v Matuszak*, 263 Mich App 42, 59; 687 NW2d 342 (2004).

¹⁴ *People v Kimble*, 470 Mich 305, 309; 684 NW2d 669 (2004); *People v Danto*, 294 Mich App 596, 605; 822 NW2d 600 (2012).

¹⁵ *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

¹⁶ *Id.* at 763.

¹⁷ MRE 103(a)(2).

whether a rule of evidence precludes admitting it.¹⁸ The trial court abuses its discretion when its outcome falls outside the range of principled outcomes.¹⁹

B. OTHER ACTS EVIDENCE

Cratty contends that the trial court erred when it admitted the evidence of the federal suit and the other UCC filing statements. We disagree, and conclude that the trial court did not plainly err when it admitted the evidence.

Generally, MRE 404(b)(1) prohibits a party from introducing evidence of another party's other crimes, wrongs, or acts to prove that person's character or propensity to engage in that type of action. Such evidence

may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, scheme, plan, or system in doing an act, knowledge, identity, or absence of mistake or accident when the same is material^[20]

The trial court properly admits other acts evidence if the proponent establishes that (1) it is offering the evidence for a proper purpose, (2) the evidence is relevant to a fact of consequence at trial, and (3) the evidence is not substantially more prejudicial than probative.²¹

1. THE FEDERAL SUIT

Cratty does not explain how filing a federal lawsuit is a crime, wrong, or act within the meaning of MRE 404(b). However, assuming for the sake of argument that Cratty's sister's filing of a federal suit against the judges and court officers involved in her foreclosure proceedings was such an act—without deciding that it is—the evidence would be admissible “cause and effect” evidence or motive evidence. Generally, when an act essentially causes or involves the commission of the crime, it is admissible because the jury is entitled to hear the “complete story” of the occurrence.²² Further, evidence which is pertinent to a party's motive is often relevant.²³ Here, the prosecution argued that the federal suit was part of the background circumstances of the criminal offense. The evidence also helps explain the prosecution's theory

¹⁸ *People v Layher*, 464 Mich 756, 761; 631 NW2d 281 (2001); *In re Utrera*, 281 Mich App 1, 15; 761 NW2d 253 (2008).

¹⁹ *Id.*; *Barnett v Hidalgo*, 478 Mich 151, 158; 732 NW2d 472 (2007).

²⁰ MRE 404(b)(1).

²¹ *People v Sabin (After Remand)*, 463 Mich 43, 55-56; 614 NW2d 888 (2000).

²² *People v Sholl*, 453 Mich 730, 742; 556 NW2d 851 (1996), quoting *People v Delgado*, 404 Mich 76, 83; 273 NW2d 395 (1978).

²³ See *People v Fisher*, 449 Mich 441, 453; 537 NW2d 577 (1995); see *People v Unger*, 278 Mich App 210, 223; 749 NW2d 272 (2008).

of Cratty's motive. We think that the evidence of Cratty's motive was particularly important here, because the prosecution had to prove that Cratty filed the false financing statements knowingly or intentionally, as opposed to mistakenly. Even assuming that filing a federal suit is a "crime, wrong, or act," we think that Cratty's argument is without merit.

2. THE PURPOSE OF THE UCC FINANCING STATEMENTS

We conclude that the trial court did not plainly err in admitting the other UCC financing statements that Cratty filed. Other acts are admissible as part of a defendant's common scheme if the defendant's actions show "common features indicating a common design" to an extent that "indicate[s] the existence of a plan rather than a series of similar spontaneous acts[.]"²⁴

Here, the prosecution offered the additional financing statements for the proper purpose of showing Cratty's common scheme of filing UCC statements against parties who were involved with Ashenurst-Gallina's foreclosure proceedings. Cratty went to Eaton County on four occasions to file a series of six UCC financing statements against a series of parties. The parties were all involved in the foreclosure proceedings surrounding his sister's house as attorneys, judges, or court officers. The UCC filing statements named as "collateral" something involving those proceedings, typically "mortgage fraud" or "fraudulent eviction," or property.

3. THE RELEVANCE OF THE UCC FINANCING STATEMENTS

Cratty also contends that the evidence was not relevant because the jury could not reasonably conclude that he was the actor who filed the financing statements. The United States Supreme Court has indicated that evidence of another act is not relevant unless "the jury can reasonably conclude that the act occurred and that the defendant was the actor."²⁵

Each UCC filing statement bears Cratty's name and indicates that it was filed and that he was identified by his driver's license at the time of filing. The Eaton County Complex's security officer testified that Cratty signed in to the complex on four separate days—each of which matches a date on a statement. We conclude that Cratty's assertion is without merit because the statements themselves allow a juror to reasonably conclude that Cratty was the actor who filed them.

Cratty next contends that the trial court erroneously admitted this evidence because it was not probative to any proper purpose, and thus was substantially more prejudicial than probative. We disagree, and conclude that the trial court did not plainly err when it admitted this evidence.

We note that it is particularly important that an appellant preserve challenges to evidence on this ground because the trial court has the best opportunity to contemporaneously assess the relative weight of the evidence's probative value and prejudicial effect.²⁶ Unfair prejudice exists

²⁴ *Sabin (After Remand)*, 463 Mich at 65-66.

²⁵ *Huddleston v United States*, 485 US 681, 689; 108 S Ct 1496; 99 L Ed 2d 771 (1988).

²⁶ *People v Blackston*, 481 Mich 451, 462; 751 NW2d 408 (2008).

when there is a danger that the jury will give undue or preemptive weight to marginally probative evidence.²⁷ Nothing in the record here indicates that the statements are unduly damaging or are of the type that would create a risk of preemptive weight. And, as explained above, the evidence pertained to an element of the crime and to Cratty's motives and plans, and thus is more than marginally probative.

4. LIMITING INSTRUCTIONS

Finally, we reject Cratty's argument that the trial court erred by not providing a limiting instruction about the use of the evidence. The trial court *may* provide a limiting instruction if a party requests one.²⁸ The record does not reflect that Cratty asked for such an instruction, and Cratty does not provide authority that would indicate that the trial court must issue a limiting instruction *sua sponte*.

C. WITNESS OPINION TESTIMONY

Cratty argues that the trial court improperly excluded the testimony of his witness and thus interfered with his right to present a defense. We disagree.

An expert witness may offer an opinion only if he or she has specialized knowledge that will assist the trier of fact to understand the evidence.²⁹ Similarly, a lay witness may offer testimony if it is "(a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact at issue."³⁰

The trial court allowed Cratty to attempt to establish a foundation for Brookins' testimony. When asked if he could explain general procedures for UCC filings, Brookins testified that he taught others general filing procedures, including to "go to Lansing and record them . . . [t]he young ladies at the UCC-1 are very cordial, they're very nice, they know what they're doing, and once they've recorded it then that makes it a legal document." Brookins testified that he had "a lot to offer this case. This is a bogus case." He further testified that he could provide clarity because during the trial, the jury had only seen "bickering and arguing" and "[t]hey don't even know what's goin[g] on." The trial court excluded Brookins' testimony because the testimony would not clarify any issue.

After a careful reading of Brookins' proposed testimony, we cannot agree with Cratty's assertion that the trial court abused its discretion by excluding it. It is unclear whether Cratty offered Brookins as a lay or expert witness, but Brookins did not qualify as a witness under either standard. He did not demonstrate that he had any specialized knowledge, his opinion testimony was not based on his perceptions, and his testimony lacked clarity. Thus, under either

²⁷ *People v Crawford*, 458 Mich 376, 398; 582 NW2d 785 (1998); *Blackston*, 481 Mich at 462.

²⁸ *Sabin*, 463 Mich at 56.

²⁹ MRE 702.

³⁰ MRE 701.

lay or expert witness standards, we conclude that the trial court's exclusion of Brookins' testimony was not outside of the reasonable range of outcomes.

IV. SUFFICIENCY OF THE EVIDENCE

A. STANDARD OF REVIEW

A claim that the evidence was insufficient to convict a defendant invokes that defendant's constitutional right to due process of law.³¹ Thus, this Court reviews de novo a defendant's challenge to the sufficiency of the evidence supporting his or her conviction.³² We review the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the prosecution proved the essential elements of the crime beyond a reasonable doubt.³³

B. APPLICATION

It is a felony for a person to "knowingly or intentionally file a false or fraudulent financing statement with the office of the secretary of state[.]"³⁴ To sustain a conviction, the evidence must indicate that Cratty (1) knowingly or intentionally (2) filed a false or fraudulent financing statement.

Cratty first argues that the prosecution did not prove that the financing statements were false or fraudulent because the statements contained in them were possibly true. We disagree.

A financing statement must indicate the collateral that the statement covers.³⁵ The Uniform Commercial Code defines "collateral" as "property subject to a security interest or agricultural lien."³⁶ Put simply, "[a] security interest is nothing more than a 'lien created by an agreement.'"³⁷

DeMarco testified that a financing statement's statement of collateral usually contains something like a tractor, crops, livestock, or a business machine. Cratty stated that the debtors were in default because they failed to comply with written contracts, and listed various things as

³¹ *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992); see *In re Winship*, 397 US 358, 364; 90 S Ct 1068; 25 L Ed 2d 368 (1970).

³² *People v Meissner*, 294 Mich App 438, 452; 812 NW2d 37 (2011).

³³ *Reese*, 491 Mich at 139.

³⁴ MCL 440.9501(6).

³⁵ MCL 440.9502(1)(c).

³⁶ MCL 440.9102(l).

³⁷ *Ottaco, Inc v Gauze*, 226 Mich App 646, 654; 574 NW2d 393 (1997), quoting Black's Law Dictionary (6th ed).

collateral, including monetary amounts, quantities of “one ounce gold American eagles,” and—absurdly—“John H. Gillis, Jr. . . . [p]erpetuating [m]ortgage [f]raud by hearing [a] case.” Judge Kalmbach, named as a debtor, testified that he had no personal or business relationships with Cratty, did not sign any contract with him, and did not owe Cratty any money. On the basis of this evidence, viewed in the light most favorable to the prosecution, a reasonable juror could conclude that Cratty’s representations in the financing statements were false.

Cratty also contends that there was insufficient evidence that he knowingly filed a false financing statement and asserts that he had reason to believe that the claims in the financing statement were legitimate.

We conclude that, viewing the evidence in the light most favorable to the prosecution, a reasonable juror could find that Cratty knowingly filed a false financing statement. This Court will not interfere with the trier of fact’s role to determine the weight of the evidence or the credibility of the witnesses.³⁸ Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime, including the defendant’s state of mind, knowledge, or intent.³⁹

The evidence showed that the victims of the financing statements were involved in Cratty’s sister’s foreclosure proceedings, that he filed the false financing statements within months of the federal suit’s dismissal, and that at least one purported debtor had no business contacts with or debts owed to Cratty. Among the reasonable inference from this evidence is an inference that Cratty knowingly or intentionally filed the false financing statements.

V. PROSECUTORIAL MISCONDUCT

A. STANDARD OF REVIEW

This Court will not reverse a conviction on the basis of prosecutorial misconduct unless the defendant challenges the alleged misconduct before the trial court, or our failure to review the issue would result in the miscarriage of justice.⁴⁰ We review unpreserved claims of prosecutorial misconduct for plain error affecting the defendant’s substantial rights.⁴¹

B. LEGAL STANDARDS AND APPLICATION

Cratty argues that the prosecutor committed misconduct when he argued that there could be financial consequences to the debtors, because there was no evidence that any specific debtor suffered financial consequence.

³⁸ *Wolfe*, 440 Mich at 514-515; *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008).

³⁹ *Id.* at 622.

⁴⁰ *Unger (On Remand)*, 278 Mich App at 234-235.

⁴¹ *Id.* at 235.

We conclude that the prosecutor did not commit misconduct because reasonable inferences from the evidence introduced at trial supported the prosecution's argument. The prosecutor commits misconduct by abandoning his or her responsibility to seek justice, thus denying the defendant a fair and impartial trial.⁴² The prosecution may not argue facts that were not entered into evidence at trial,⁴³ but may argue any reasonable inference from the evidence.⁴⁴

Here, the prosecutor argued as follows:

. . . [I]n this day and age you go in and you want to borrow money for an iPad or house or your child's education or whatever, you go to the financial institution, you fill out all those forms and you know what they do, they send it to their credit company. . . . So here's the financial institution, . . . Kalmbach's in there to get a loan or whatever and all of the sudden here it is. They owe him a million dollars plus.

The evidence at trial included testimony that financing statements are part of the public record, that financial institutions check financing statements, and that the financing statements state that the "debtors" owe Cratty amounts approaching \$3,000,000. The prosecution's specific inference—that the financing statements might adversely affect the debtors if they went to a financial institution to obtain a loan—was a reasonable inference from this evidence.

VI. JURY INSTRUCTIONS

Cratty asserts that the trial court erred when it instructed the jury in response to two of the jury's questions. We conclude that Cratty waived any challenge when he affirmatively approved the trial court's instructions, and we may not review this issue. A defendant may waive his or her challenge to jury instructions.⁴⁵ If a party affirmatively approves the trial court's jury instructions on the record, the party's approval is an intentional abandonment of its known rights and the party's waiver extinguishes any error and prevents this Court from reviewing the issue.⁴⁶

The jury first asked whether it could have copies of the previous and current UCC laws. Before addressing the questions posed by the jury, the trial court engaged in a conference with Cratty and the prosecution to determine how to answer the questions. It instructed the jury that it could not provide that evidence because it was not introduced at trial, and that the jury should "consider the evidence and the law" as instructed. After it did so, the trial court asked Cratty if he had any objections, to which Cratty responded, "I agree with that."

⁴² *People v Dobek*, 274 Mich App 58, 63; 732 NW2d 546 (2007).

⁴³ *People v Stanaway*, 446 Mich 643, 686; 521 NW2d 557 (1994).

⁴⁴ *Unger*, 278 Mich App at 236.

⁴⁵ *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000).

⁴⁶ *Id.*

The jury next asked if the trial court could supply it with a definition of “fraudulent financing statement”; the trial court responded that it could not, and that they should rely on common sense. When the trial court asks a party whether it has any objections to the jury instructions and the party responds negatively, it is an affirmative approval of the trial court’s instructions.⁴⁷ Here, after issuing the challenged instruction, the trial court again asked Cratty if he had any objections, to which he responded, “No.”

VII. CONCLUSION

We conclude that Cratty effectively waived his right to the assistance of counsel. The trial court did not err by admitting the other acts evidence or by excluding Brookings’ testimony. On the basis of the testimony, sufficient evidence existed for a reasonable juror to conclude that Cratty knowingly filed false financing statements. We conclude that the prosecutor’s argument about the possible consequences of Cratty’s conduct was a reasonable inference from the evidence. Finally, Cratty’s waiver precludes us from reviewing his challenge to the jury instructions.

We affirm.

/s/ Christopher M. Murray
/s/ Jane E. Markey
/s/ William C. Whitbeck

⁴⁷ *People v Lueth*, 253 Mich App 670, 688; 660 NW2d 332 (2002).