STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2002

State of Minnesota,
Respondent,

vs.

Carlos Dwane Collins,
Appellant.

Filed November 4, 2019
Affirmed
Kalitowski, Judge[*]

Ramsey County District Court
File No. 62-CR-17-4622

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Rachel F. Bond, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Ross, Judge; and Kalitowski, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

KALITOWSKI, Judge

In a direct appeal from his conviction of check forgery, appellant Carlos Dwane Collins argues that the state failed to present sufficient evidence to sustain his conviction. We affirm.

D E C I S I O N

To convict appellant of check forgery, the state had to prove, beyond a reasonable doubt, that appellant, with intent to defraud, offered, or possessed with intent to offer, a forged check. Minn. Stat. § 609.631, subd. 3 (2016). Appellant argues that the state did not present sufficient evidence that he knew the check was forged or that he offered the check with the intent to defraud.

When reviewing a claim of insufficient evidence, we carefully review the record "to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the [fact-finder] to reach its verdict." *Lapenotiere v. State*, 916 N.W.2d 351, 360-61 (Minn. 2018) (quotation omitted). We use the same standard of review in bench trials and jury trials when evaluating the sufficiency of the evidence. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). Intent is a product of the mind and is generally proved by circumstantial evidence, based on inference. *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997). Knowledge, like intent, is also usually proved by circumstantial evidence. *State v. Mattson*, 359 N.W.2d 616, 617 (Minn. 1984).

When, as here, the challenged conviction is based on circumstantial evidence, we apply a two-step analysis. *State v. Harris*, 895 N.W.2d 592, 598-601 (Minn. 2017). First, we identify the circumstances proved "by resolving all questions of fact in favor of the jury's verdict." *Id.* at 600. Second, we independently consider the "reasonable inferences that can be drawn from the circumstances proved." *Id.* at 601. The circumstances proved must, as a whole, "be consistent with a reasonable inference that the accused is guilty and inconsistent with any rational hypothesis except that of guilt." *Id.* We assume the fact-finder "believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989).

The state proved the following circumstances. Appellant testified that he owns a business, C&C Handyman Business Services, through which he performs yardwork and landscaping services. In June 2017, a man approached appellant's job site and asked appellant to work for him. Appellant did not recall the man's name, but believed his nickname could be Sam.

On June 23, 2017, a few minutes before closing, appellant arrived at Hiway Federal Credit Union. Appellant was not a member at the credit union, but he wanted to cash a check for $950. The check was written to appellant personally and belonged to M.S. and W.S., members of the credit union. He presented the check and his identification to the teller. The teller noticed that the logo on the check did not match the credit union's standard checks. She further noticed that the signature on the check did not match the signature for W.S. that the credit union had on file, and $950 was not a typical amount that W.S. and M.S. had withdrawn from their account. Moreover, the teller testified that attempting to

cash a check just before closing is suspicious because people often commit fraudulent transactions then, hoping that the bank employees will rush through the transaction. Because of her suspicions, the teller presented the check to her manager. Her manager contacted W.S., who informed her that he did not authorize the check.

The security guard on duty during this transaction testified that appellant was looking around, appeared "very nervous," and paced back and forth. After learning that the check was fraudulent, the security guard spoke to appellant. Appellant said he received the check for doing "outside stuff," consisting of cutting grass and trimming trees for nine hours. When asked who issued him the check, appellant said that there was a man and a woman and the man gave him the check. Appellant said that he performed the work in Minneapolis but was unsure where. The security guard testified that appellant appeared "defeated" and "nervous" when speaking to him.

Appellant testified at trial as to his version of the events. His testimony was inconsistent with his statements to the security guard. The district court considered appellant's version of events but found that appellant was not credible.

In support of appellant's first alternative theory of innocence, that he did not know the check was forged, appellant argues that the district court "recognized that there was nothing about the check itself that would prove beyond a reasonable doubt the knowledge and intent elements." But the district court based its decision on more than the face of the check. Specifically, the district court found that "the inquiry does not conclude with an examination of the financial instrument." And we do not view the circumstances proved

in isolation; we view the circumstances proved as a whole. *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013).

The circumstances, when viewed as a whole, render appellant's theory that he did not know the check was forged unreasonable. Appellant entered the bank minutes before close which, as the teller testified, is suspicious. He appeared "very nervous" and paced back and forth. Further, when confronted by the security guard, he was unable to provide specific details about where he performed the work and who issued him the check. He claimed that he received $950 for nine hours of working on "outside stuff." At trial, for the first time, he claimed that he performed seven to eight hours of work per day for four days. And appellant claimed that he worked on behalf of his business, but the check was written to him personally. Moreover, although the check belonged to W.S. and M.S., appellant testified that the man who gave him the check introduced himself as Sam. Appellant also testified that he believed he was owed more than $950, but did not raise the issue at the time Sam paid him, although he did not know anything about Sam other than his nickname.

Appellant also appears to take issue with the fact that the district court based its verdict "in large part" on appellant's statements to the security guard at the time of his arrest. But the district court, as fact-finder, is permitted to credit the security guard's testimony. Given appellant's demeanor in the bank, his lack of specificity regarding the origins of the check, and his inconsistent accounts of how he obtained the check, appellant's alternative theory that he did not know the check was forged is not reasonable.

Appellant's second alternative theory of innocence, that he did not offer the check with the intent to defraud, is also unreasonable. If appellant believed that the check was invalid and was merely attempting to verify its validity, he would have clarified this when speaking with the teller or when the security guard confronted him. And the teller testified that it was clear to her that appellant was trying to cash the check. She stated that the only reason appellant would have offered identification would be to cash the check. Appellant did not offer the explanation that he was merely trying to verify the check's validity until trial. Viewing the circumstances proved in the light most favorable to the district court's verdict, appellant's alternative theories of innocence are not reasonable.

Affirmed.