

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20050504-CA	
v.)		
)	F I L E D	
Alisa Gullata,)	(August 3, 2006)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2006 UT App 323</td></tr></table>	2006 UT App 323
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Fourth District, Provo Department, 041400543
The Honorable Samuel D. McVey

Attorneys: Sheldon R. Carter, Salt Lake City, for Appellant
Mark L. Shurtleff and Karen A. Klucznik, Salt Lake
City, for Appellee

Before Judges Bench, Billings, and McHugh.

PER CURIAM:

Alisa Gullata appeals her convictions for forgery and theft. We affirm.

Gullata first argues that the offenses of forgery and theft merge and, therefore, she should not have been convicted of both crimes. However, Gullata has not adequately briefed the issue, and, we decline to address it. See State v. Lee, 2006 UT 5, ¶23, 128 P.3d 1179. "An adequate brief is one that fully identifies and analyzes the issues with citation to relevant legal authority. . . . Mere 'bald citation to authority,' devoid of any analysis, is not adequate." Id. at ¶22 (citations omitted). Although Gullata cites several cases discussing the doctrine of merger as it applies to other crimes, she fails to provide this court with any meaningful analysis as to why her conviction for theft should have merged into the forgery conviction. Accordingly, we decline to address the issue on the merits.

Gullata next asserts that there was insufficient evidence of intent to support her forgery conviction. We will reverse a jury verdict based on a sufficiency of the evidence claim "only when the evidence 'is sufficiently inconclusive or inherently improbable that reasonable minds must have entertained a

reasonable doubt.'" State v. Boss, 2005 UT App 520, ¶9, 127 P.3d 1236 (citations omitted). When viewed in the light most favorable to the verdict, the evidence presented by the State demonstrates that reasonable minds could have determined that Gullata had knowledge that she uttered a forged instrument. See id. (stating evidence must be viewed in the light most favorable to the verdict). Specifically, the testimony showed that the fast-food restaurant clerk overheard two different women seemingly ordering indiscriminately from the menu board resulting in an order of over \$45.00. Gullata testified that this \$45.00 order was only meant to feed her two kids and the babysitter. Additionally, she also testified that she did not believe she and her passenger made a large order and it amounted to only one bag of food. Finally, Gullata's testimony in some instances was inconsistent with other witnesses, leading to the inference that she may have been less than truthful. Under these circumstances, reasonable minds could have determined that Gullata knew the check she uttered to the fast-food clerk was forged. Thus, the evidence was sufficient to support the conviction for forgery.

Finally, Gullata argues that the district court erred in denying her motion for a mistrial based upon the State's attempted introduction of improper character evidence. In so doing, Gullata points to the State's reference to four separate incidents. However, Gullata's request for a mistrial only referenced the State's remark concerning the probation status of Gullata's husband. The other remarks of which Gullata now complains were either not objected to or not referenced in the motion for a mistrial. Accordingly, the only issue that is preserved for our review is whether the district court erred in denying Gullata's motion for a mistrial based on the State's reference to her husband's probation status. See State v. Dean, 2004 UT 63, ¶13, 95 P.3d 276 (concluding defendant must preserve issue for appeal by sufficiently raising issue to district court).

"[O]nce a district court has exercised its discretion and denied a motion for a mistrial, we will not reverse the court's decision unless it 'is plainly wrong in that the incident so likely influenced the jury that the defendant cannot be said to have had a fair trial.'" State v. Allen, 2005 UT 11, ¶39, 108 P.3d 948 (citations omitted). Gullata asked for a mistrial after the State's witness responded to a question by stating: "I got ahold of her with a phone number I got from her husband's probation officer." In response, the district court determined that while the statement had the taint of prejudice, the statement concerned Gullata's husband, not Gullata herself. As such, it was not so prejudicial as to affect the outcome of the case. Therefore, the court denied the motion. Further, the district court gave a curative instruction to the jury,

instructing it not to consider the statement. See State v. Harmon, 956 P.2d 262, 272-74 (Utah 1998) (discussing efficacy of curative instructions to remedy minor errors that occur during trial). The evidence of Gullata's husband's probation status was not referenced during the remainder of the trial. Under these circumstances, as well as the other facts that appear in the record, the district court was not plainly wrong in denying Gullata's motion for mistrial because the comment was not so prejudicial as to affect the outcome of the case.

Affirmed.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

Carolyn B. McHugh, Judge