

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	No. 65767-4-I
)	
Respondent,)	
)	
v.)	
)	
DANIEL ELAN BARNHART,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: November 14, 2011
)	

Ellington, J. — Daniel Barnhart appeals his conviction for unlawful issuance of a bank check. The evidence was insufficient to sustain the verdict. We reverse.

BACKGROUND

In August 2008, Barnhart brought his truck into Skagit Transmission in Burlington, Washington for repairs. Skagit advised him that a previous auto mechanic had failed to install some of the parts for which it had billed him when he took his truck there for “heavy duty” transmission upgrade. Barnhart authorized Skagit to redo the upgrade and requested an invoice to bring to the other mechanic, saying he expected to receive reimbursement.

When the repairs were complete around August 7, Barnhart did not have the money to pay. Against policy, Glen Becker, president of Skagit, said Barnhart could take his truck if he left a postdated check to cover the final invoice. Barnhart agreed

and postdated a check August 28, 2008. He assured Skagit he would either be back with cash before that date, or that the check would be good then. He mentioned he expected some money from the refinancing of his house.

But Barnhart did not return with the cash by August 28, and he repeatedly called Skagit asking them to continue holding the check. When Skagit finally attempted to deposit the check that November, it was returned for insufficient funds.

Police arrested Barnhart and charged him with unlawful issuance of a bank check. At trial, the State called to the stand Glen Becker, Skagit's bookkeeper, and its rebuild mechanic, who each testified to facts above. It also introduced bank statements from the account on which the check was drawn, which was not in Barnhart's name but bore his address and phone number. The State pointed out there were about \$1,200 in deposits in August 2008, but that the account had a negative ending balance every month from July 2008 through December 2008, when the account was closed.¹

After the State rested its case, Barnhart moved to dismiss the case for failure of proof. The court denied the motion and a jury convicted Barnhart as charged.

DISCUSSION

To convict a defendant for unlawful issuance of a bank check, the State must prove the defendant delivered a check with intent to defraud, knowing he had insufficient funds in his account.² The State bears the burden of proving each

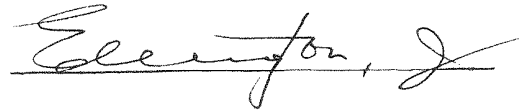
¹ Barnhart does not argue the bank statements were improperly admitted.

² RCW 9A.56.060(1); State v. Ben-Neth, 34 Wn. App. 600, 606, 663 P.2d 156 (1983).

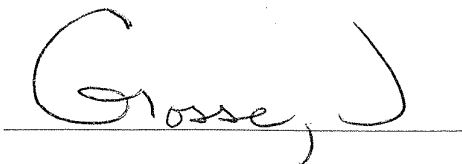
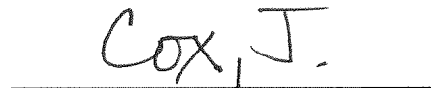
element of the crime beyond a reasonable doubt.³ Evidence is sufficient to support a conviction if, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.⁴

Here, the State presented three witnesses who worked at Skagit and who recounted their dealings with Barnhart. None of them identified anything he did or said that indicated an intent to defraud Skagit at the time he delivered the check. To the contrary, the witnesses testified that Barnhart said he expected reimbursement from the other mechanic and mentioned a refinance on his home as a means of paying Skagit's invoice. The State presented no evidence to disprove these representations. Six months of negative balances on a bank account is not enough to prove intent to defraud. Taking the evidence in the light most favorable to the State, there was insufficient evidence to sustain Barnhart's conviction.

Reversed.

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WE CONCUR:

Handwritten signature of Grosse, J. in cursive script, written over a horizontal line.Handwritten signature of Cox, J. in cursive script, written over a horizontal line.

³ Apprendi v. New Jersey, 530 U.S. 466, 476-77, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000).

⁴ State v. Green, 94 Wn.2d 216, 221, 616 P.2d 628 (1980) (quoting Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)).