STATE OF MINNESOTA
IN COURT OF APPEALS
A09-37

State of Minnesota,
Respondent,

vs.

Demetra Lavette Glaze,
Appellant.

Filed January 19, 2010
Affirmed
Stauber, Judge

Dakota County District Court
File No. 19K906002789

Lori Swanson, Attorney General, St. Paul, Minnesota; and

James C. Backstrom, Dakota County Attorney, Kevin J. Golden, Assistant County Attorney, Hastings, Minnesota (for respondent)

Marie L. Wolf, Interim Chief Public Defender, Renee Bergeron, Special Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Stauber, Presiding Judge; Kalitowski, Judge; and Hudson, Judge.

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

STAUBER, Judge

On appeal from her conviction of offering a forged check, appellant argues that the evidence was insufficient to prove that she offered the check with intent to defraud. We affirm.

FACTS

On June 28, 2005, L.L.C.R.'s wallet was stolen from her place of employment. The wallet contained several personal effects, including her checkbook for the joint account she held with her husband, R.A.R. L.L.C.R. immediately reported the theft to law enforcement and her bank. Two days later, one of the stolen checks, written in the amount of $11,500, was deposited into appellant Demetra Lavette Glaze's bank account. The check was made payable to appellant and appeared to contain the signature of R.A.R. A bank representative contacted R.A.R. to determine whether he had authorized the check. R.A.R. denied authorizing the check and alleged that it had been forged. Payment on the check was subsequently denied and appellant's bank account was closed for depositing a stolen check.

Shortly thereafter, a police detective contacted appellant to determine how she obtained the check. During the phone interview, appellant initially claimed that she received the check as payment for several household items she sold. Appellant stated that she sold the items to a man she had never met before and whose name she could not remember. Appellant claimed that she was introduced to the man by an acquaintance named Carl. Appellant could not remember Carl's last name and did not have contact

information for him. Appellant described the man who purchased the items as a "chubby" African American in his forties with glasses and a moustache. The items, which appellant described as "just extra things [she] didn't need," included a laptop, television, sofa, and dishes. Appellant told the detective that she assumed the man who gave her the check was the actual account holder because he gave her his driver's license and social security card and he went with her to the bank drive-up window to deposit the check. The detective told appellant that he doubted her story because if she had been "ripped . . . off," as she claimed, she would have filed a police report. Appellant eventually admitted that no sale had occurred, and alleged that the man had, instead, given her the check in exchange for running "a few errands" for him. Although the payment she received seemed excessive for only running a few errands, appellant claimed that she "just did it with no questions asked."

Appellant was subsequently charged with offering a forged check in violation of Minn. Stat. § 609.631, subds. 3, 4(2) (2004). At trial, L.L.C.R. testified that her wallet had been stolen from the employee office in the hardware store where she worked as a cashier. She testified that the wallet was likely stolen by two "suspicious" African American men who visited the store on the day her wallet disappeared from her purse. L.L.C.R. did not witness the theft, but she assumed that one of the men stole the wallet while the other man distracted the employees at the store. L.L.C.R. and R.A.R. both testified that they did not authorize the issuance of the check to appellant, and R.A.R. claimed that the signature on the check had been forged. They further testified that they

did not know appellant and had never seen her before. An audio recording of appellant's interview with the detective was also played for the jury.

Appellant testified that she did not know that the check was forged when she deposited it and claimed that she received the check as payment for various items that she sold. The items included a television, desktop and laptop computers, dressers, beds, a desk, and a living-room furniture set. Appellant claimed that she decided to sell the items because she planned to move to Texas to care for her ill mother. After advertising the items for sale with various people, including an acquaintance named Carl, two men she had never met before allegedly stopped by her home to look at the items. One of the men was Caucasian and the other was African American. Appellant testified that, after some negotiation, she agreed to accept $11,500 for all of the items. The African American man gave her a check for the agreed amount, but the check was actually written by the Caucasian man, who identified himself as Ron. Appellant confirmed the Caucasian man's identity by comparing the signature on the check to the signatures on the man's driver's license, social security card, and major credit card. Due to the large amount of the check, appellant required the men to accompany her when she deposited it at the bank to confirm that it was valid. According to appellant, bank representatives informed her that a hold would be placed on the check until it cleared. Appellant testified that she told the men they would need to provide her with collateral until the check cleared. Appellant claimed that the Caucasian man wrote her another check for $500 and they attempted to cash it at another bank. The teller at the bank allegedly told appellant that there were no funds in the account. Appellant then informed the men that they would not receive the

items until the first check cleared. Appellant testified that she learned several days later that the check was reported stolen and that a hold had been placed on her account.

During cross-examination, the state confronted appellant about several inconsistencies in her story. The state noted that appellant had previously told the detective that she did not receive the funds for the sale of personal items, but for running errands. The state also noted that appellant never mentioned in her discussions with the detective that (1) there were two men involved in the transaction; (2) the check was written by a Caucasian man named Ron; (3) she went to another bank with the men to attempt to cash another check; or (4) the sale was not completed and the items remained at her home.

In response, appellant claimed that she told the detective that she received the money for running errands, instead of as payment for the items, because the sale of the items was never completed and the "errands" she performed included driving the men to the banks. Appellant also claimed that she may have neglected to mention certain details about the transaction because she was "irritated" by the detective's repeated questions. On redirect, appellant alleged that R.A.R. himself may have been the man who gave her the check.

At the close of trial, appellant was found guilty of the charge offense. This appeal followed.

D E C I S I O N

In considering a claim of insufficient evidence, this court's review is "limited to a painstaking analysis of the record to determine whether the evidence, when viewed in a

light most favorable to the conviction, was sufficient to permit the [fact-finder] to reach the verdict which they did." *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The reviewing court must assume that the factfinder "believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). This court will not disturb the verdict if the factfinder, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant is guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

Appellant argues that there is insufficient evidence to support her conviction of offering a forged check because the state failed to prove that she knew she was offering a forged check or that she offered the check with intent to defraud.

In order to convict appellant of offering a forged check, the state had the burden of proving beyond a reasonable doubt that appellant offered the forged check with intent to defraud. *See* Minn. Stat. § 609.631, subd. 3 (2004). Intent is an inference drawn by the jury from the totality of the circumstances, *State v. Marsyla*, 269 N.W.2d 2, 5 (Minn. 1978), and is generally proven circumstantially "by inference from words and acts of the actor both before and after the incident." *State v. Johnson*, 616 N.W.2d 720, 726 (Minn. 2000).

Appellant relies upon her testimony at trial that she received the check as payment for the items she sold to two men. She claims that she had no idea that the check was forged until several days after she deposited it. But this argument overlooks appellant's admission to the detective that her initial story about receiving the check as payment for

several personal items was false. The state also emphasized that appellant's testimony regarding the purported sale of items departed substantially from her statement to the detective. Appellant's admission to the detective that she had lied and the many inconsistencies in her story made it reasonable for the jury to conclude that appellant knew that the check was forged and offered it with intent to defraud. Appellant attempted to explain away many of these inconsistencies, but the jury found her explanations incredible. *See State v. Ostrem*, 535 N.W.2d 916, 923 (Minn. 1995) ("[T]he jury is free to question a defendant's credibility, and has no obligation to believe a defendant's story."); *State v. Bliss*, 457 N.W.2d 385, 390 (Minn. 1990) (stating that "[t]he weight and credibility of individual witnesses is for the jury to determine"). Although a direct connection between appellant and the theft of the purse was never established, we conclude that the evidence presented at trial was sufficient for the jury to find that appellant deposited the check with intent to defraud.

Affirmed.