

No. 1-10-2744

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 09 CR 7284
)	
EDGAR COLEMAN,)	The Honorable
)	Carol M. Howard,
Defendant-Appellant.)	Judge Presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Presiding Justice Lavin and Justice Sterba concurred in the judgment.

ORDER

¶ 1 *Held:* Where document bearing defendant's name and title company's stamp effectuating fraudulent conveyance was presented, evidence sufficiently corroborated detective's testimony of defendant's admissions to completing document so as to provide *corpus delicti* of offense of forgery; defendant's conviction was affirmed.

¶ 2 Following a bench trial, defendant Edgar Coleman was convicted of forgery and was sentenced to four years in prison. On appeal, defendant challenges the sufficiency of the evidence to convict him, arguing the only proof that a crime was committed came from his own uncorroborated statement that he delivered the forged document and the State presented no independent proof as to the delivery element of the offense. We affirm.

¶ 3 Defendant was charged with two counts of forgery relating to the completion of a blank document signed by Jerry Purnell, who is the brother of defendant's stepfather. At trial, Purnell testified that he lived in Mississippi but had previously lived in Chicago. Purnell stated that in 1985, he purchased property at 20 North Mason in Chicago. In 2006, Purnell intended to convey that property to his brother, Willie, who had paid off the mortgage in or around October 2005.

¶ 4 On January 19, 2006, while visiting Chicago, Purnell spoke to defendant, who said he would accompany Purnell to the Chicago Title Land Trust Company (Chicago Title) to obtain a deed for the North Mason property. Purnell testified he was shown a trustee deed for the property that was dated January 17, 2006. A copy of the deed was entered into evidence, and Purnell testified that defendant agreed to record the document with the Cook County recorder of deeds and prepare a quitclaim deed.

¶ 5 While he and defendant were at Chicago Title, Purnell signed and printed his name on a document titled "Direction to Convey." Purnell testified that when he did so, no other information was listed on the document. Purnell said that before he signed the blank form, he told defendant the property was "going to Willie Purnell." The men left Chicago Title, and Purnell returned to Mississippi several days later.

¶ 6 Contrary to Purnell's direction, defendant apparently conveyed the North Mason property to himself. A copy of the completed "Direction to Convey" document was entered into evidence. Both the deed and the "Direction to Convey" document are included in the record on appeal. The "Direction to Convey" document bears a handwritten date of February 2, 2006, and directs Chicago Title to execute a deed for the North Mason property to defendant. The document is signed by defendant.

¶ 7 In March or April 2006, Purnell spoke with Willie, who said his name (Willie's) did not appear on the title to the property. Purnell searched the property's records on-line and learned the document had not been recorded. On cross-examination, Purnell stated he intended for defendant to record the deed for him and had expressly asked defendant to do so.

¶ 8 Chicago police detective James Frale testified that on April 2, 2009, he showed defendant the "Direction to Convey" document, and defendant said he had completed the document with his information instead of listing Willie as Purnell had directed him to do. Defendant told Detective Frale that he presented the completed form to Chicago Title and received a deed to the property.

¶ 9 Detective Frale testified defendant admitted to using the deed to obtain a mortgage on the property for \$50,000. Defendant said his motive in getting the loan was to recoup money that Willie owed him. The detective said he showed defendant a copy of the completed "Direction to Convey" document, and defendant admitted he signed the document and did not have permission to complete the document so as to convey the property to himself. Defendant told the detective he transferred the title to a man with the last name of Gloss, to whom defendant owed money.

¶ 10 On cross-examination, Detective Frale noted the copy of the "Direction to Convey" document that was entered into evidence had been stamped "CTLT 0077." The detective stated he received the document from Purnell's attorney, who said he received the document from Chicago Title. When the detective was asked if he did "anything to verify that," he responded no.

¶ 11 When defense counsel asked if the detective could testify as to whether the document was recorded, the trial court sustained the State's objection, ruling that whether the document was properly recorded was outside the expertise of the witness. Defendant admitted to Detective

Frale that he signed the "Direction to Convey" document.

¶ 12 Defendant was charged with two counts of forgery. Count I of the indictment charged defendant with completing the "Direction to Convey" document in violation of section 17-3(a)(1) of the Criminal Code of 1961 (the Code) (720 ILCS 5/17-3(a)(1) (West 2006)), and Count II charged defendant with delivering the document in violation of section 17-3(a)(2) of the Code (720 ILCS 5/17-3(a)(2) (West 2006)).

¶ 13 The court admitted both the deed and the "Direction to Convey" document into evidence. Although defense counsel contended the State had not laid a proper foundation for the admission of the deed, the State responded the deed was being introduced as circumstantial evidence of defendant's intent to defraud based on his failure to record the document. As to the "Direction to Convey" document, the court noted that Purnell was able to identify his signature on the document and the date and time at which he signed it. The court concluded the defense's arguments went to the weight to be given the documents, as opposed to their admissibility. The court found defendant guilty of forgery on Count 2 (delivery).

¶ 14 On appeal, defendant contends the State failed to prove his guilt beyond a reasonable doubt because the only evidence of defendant's delivery of the "Direction to Convey" document came from his confession to Detective Frale. Defendant argues that under the *corpus delicti* rule, the State must present independent evidence of the delivery of the document to corroborate his statement, and he contends that without such evidence, his conviction should be reversed.

¶ 15 We first consider defendant's contention that *de novo* review is required. Defendant argues that because he has raised a challenge to the sufficiency of undisputed facts to establish the elements of a crime, this court should consider his arguments without deference to the trial

court's findings, as opposed to applying the traditional standard in which the evidence is viewed in the light most favorable to the prosecution and the defendant's conviction is affirmed if any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. See *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); see also, e.g., *People v. Baskerville*, 2012 IL 111056 (2012), ¶ 31 (all reasonable inferences from the evidence must be allowed in the State's favor).

¶ 16 Whether the State has proved the *corpus delicti* of an offense presents a question of the sufficiency of the evidence to be reviewed under the reasonable doubt standard. *People v. Hurry*, 2012 IL App (3d) 100150, ¶ 10 (citing *People v. Sargent*, 239 Ill. 2d 166, 183 (2010)).

Defendant contends, however, that *de novo* review is required here because the main issue presents a question of law, *i.e.*, whether the uncontested facts were sufficient to prove the elements of the crime. Defendant cites *People v. Smith*, 191 Ill. 2d 408 (2000), in support of that assertion. This court has expressly declined to find *Smith* precedential as to claims of the sufficiency of the evidence, noting that in *Smith*, the supreme court construed the meaning of a statute, which undoubtedly warrants *de novo* review. See *People v. Green*, 2011 IL App (2d) 091123, ¶ 17-19 (a challenge to the evidence is reviewed under *Jackson* standard set out above); *People v. Norris*, 399 Ill. App. 3d 525, 529-30 (2010) (whether undisputed facts satisfy "substantial step" element of attempted theft by deception is factual question subject to review under reasonable doubt standard). We thus apply the reasonable doubt standard to the *corpus delicti* issue raised by defendant.

¶ 17 In Illinois, proof of an offense requires evidence to establish two distinct propositions beyond a reasonable doubt: (1) that a crime occurred, *i.e.*, the *corpus delicti*; and (2) that the

crime was committed by the person charged. *Sargent*, 239 Ill. 2d at 183. In many cases, a defendant's confession may be integral to proving the *corpus delicti*; however, our supreme court has noted the "well established" tenet that "proof of the *corpus delicti* may not rest exclusively on a defendant's extrajudicial confession, admission or other statement." *Id.* Where a defendant's confession is part of the proof of the *corpus delicti*, the prosecution must also adduce corroborating evidence independent of the defendant's own statement, and if a confession is not corroborated in this way, a conviction based on the confession cannot be sustained. *Id.* The "corroboration requirement stems from an historical mistrust of extrajudicial confessions," and our supreme court noted in *Sargent* that confessions can be coerced and that for psychological reasons, people confess to crimes that either did not occur "or for which they are not legally responsible." *Id.*

¶ 18 In the case at bar, defendant was found guilty under section 17-3(a)(2), which criminalizes "issuing or delivering a document apparently capable of defrauding another in that it was purported to have been made by another or at another time. 720 ILCS 5/17-3(a)(2) (West 2006)); *People v. Hockaday*, 93 Ill. 2d 279, 282 (1982); *People v. Angarola*, 387 Ill. App. 3d 732, 740 (2009) (forgery statute separately criminalizes creation and delivery of a fraudulent document). Defendant was convicted of knowingly delivering the fraudulent "Direction to Convey" document that was purported to have been made by Jerry Purnell, while knowing it was not completed by Purnell. However, defendant contends the State failed to present independent evidence as to the element of the delivery of the document. (He does not challenge the proof of the other elements of forgery.)

¶ 19 Defendant acknowledges Detective Frale's testimony that Purnell's attorney gave the

detective the completed copy of the "Direction to Convey" document that was entered into evidence at trial, and the attorney told the detective he had obtained the document from Chicago Title. However, defendant argues Detective Frale "did nothing to verify" those facts, and he asserts the detective's testimony therefore cannot serve as corroboration of the document's delivery.

¶ 20 As to the level of proof required where a defendant's confession represents part of the *corpus delicti*, the evidence independent of the confession need not, by itself, prove the existence of the crime beyond a reasonable doubt. *Sargent*, 239 Ill. 2d at 183. "If the defendant's confession is corroborated, the corroborating evidence may be considered together with the confession to determine whether the crime, and the fact the defendant committed it, have been proven beyond a reasonable doubt." *Id.*; see also *People v. Phillips*, 215 Ill. 2d 554, 576 (2005). If there is evidence of corroborating circumstances which tend to prove the *corpus delicti* and correspond with the circumstances related in the confession, both the circumstances and the confession may be considered in determining whether the *corpus delicti* is sufficiently proved in a given case. *Hurry*, 2012 IL App (3d) 100150, ¶ 11.

¶ 21 Here, defendant's admissions to Detective Frale, coupled with the entry of the "Direction to Convey" document into evidence, are sufficient to establish the element of defendant's delivery of the document. Detective Frale testified defendant told him he completed the document to convey the property to himself and delivered the completed form to Chicago Title. The copy of the document described at trial, and included in the record on appeal, bears a "CTLT" stamp. The document was obtained from Purnell's attorney, who got it from Chicago Title. Although the meaning of the "CTLT" stamp was not presented, the delivery of the document to Chicago

Title can be presumed from the detective's testimony. Defendant's admissions to the detective, considered alongside the corroborating evidence that the document was delivered to Chicago Title, establishes that element of the offense beyond a reasonable doubt.

¶ 22 Defendant argues, though, that corroboration is required not just for the commission of the offense, but for every *element* of the offense of which he was convicted, including the element of delivery. Although we have found the evidence of the delivery element sufficient under the standard set out in *Sargent*, we do not read *Sargent* or the additional authority cited by defendant to require corroboration of each element of a crime under the *corpus delicti* rule, as defendant suggests.

¶ 23 In *Sargent*, the defendant was convicted of one count of predatory criminal sexual assault as to one minor and three counts of predatory criminal sexual assault and two counts of aggravated criminal sexual abuse of a second minor. *Sargent*, 239 Ill. 2d at 169. The defendant argued the only evidence of some of those counts was his uncorroborated confession, which he disavowed at trial. *Id.* at 182. The supreme court in *Sargent* noted the corroboration requirement "demands that there be some evidence, independent of the confession, tending to show the crime did occur." *Id.* at 183. The supreme court stated:

"Our precedent demonstrates that under the corroboration rule, the independent corroborating evidence must relate to the specific events on which the prosecution is predicated. Correspondingly, where [as in *Sargent*] a defendant confesses to multiple offenses, the corroboration rule requires that there be independent evidence tending to show that defendant committed each of the *offenses* for

which he was convicted." (Emphasis added.) *Id.* at 184-85; see also *Hurry*, 2012 IL App (3d) 100150, ¶ 11.

¶ 24 After reviewing the evidence presented at trial independent of the defendant's confession, the court in *Sargent* concluded that no evidence was presented to support several of the counts on which the defendant was convicted, and the court reversed those counts. *Sargent*, 239 Ill. 2d at 187. *Sargent* does not state or otherwise stand for the proposition that independent corroboration, outside of a confession, is needed for every element of an offense. *Sargent*, instead, involved corroboration of different counts, *i.e.*, separate offenses.

¶ 25 We note the *corpus delicti* rule is commonly, though by no means exclusively, discussed in cases involving sexual crimes in which the defendant's confession represents the only proof of the defendant's sexual act(s). See, *e.g.*, *id.* at 187-88 (no evidence to corroborate defendant's confession that he touched minor stepson's penis); *Hurry*, 2012 IL App (3d) 100150, ¶ 15 (defendant's confession sufficiently corroborated one count of predatory criminal sexual assault via child's accurate description of defendant performing sexual acts; however, other acts were not corroborated by child); *People v. Rivera*, 2011 IL App (2d) 091060, ¶ 45 (defendant's conviction for murder of 11-year-old was reversed where no independent evidence corroborated defendant's use of a dangerous weapon, sexual penetration of the victim by force, or other facts); *People v. Vaughn*, 2011 IL App (1st) 092834, ¶ 29 (defendant's in-court testimony and extrajudicial confession sufficiently established *corpus delicti* of offense of sexual assault of defendant's 14-year-old daughter). But see, *e.g.*, *People v. McCarter*, 2011 IL App (1st) 092864, ¶ 49-50 (defendant argued State failed to prove *corpus delicti* of armed robbery, *i.e.*, that he took money from the victim). The confessions of defendants in sexual abuse and assault cases can result

from guilt in the abuse of a position of trust or the pressure on the defendant to confess, imposed by police or other authorities. See *People v. Lara*, 408 Ill. App. 3d 732, 741 (2011), *appeal allowed*, No. 112370 (September 28, 2011) (citing psychological studies of false confessions) (oral argument held on May 15, 2012).

¶ 26 In the instant case, defendant argues that in *Lara*, this court applied *Sargent* to require corroboration of each element of an offense. This court does not find *Lara* to mandate that level of corroboration. In *Lara*, the defendant was convicted of two counts of predatory criminal sexual assault, which requires proof of the elements of aggravated criminal sexual abuse (a lesser included offense), plus the element of sexual penetration. *Lara*, 408 Ill. App. 3d at 738-39 (citing respective applicable statutes of 720 ILCS 5/12-14.1(a)(1) and 720 ILCS 5/12-16-(c)(1)(I)). The majority opinion in *Lara* reversed defendant's convictions for predatory criminal sexual assault based on the absence of corroboration of "the single element, sexual penetration, that distinguishes" aggravated criminal sexual abuse from predatory criminal sexual assault. *Id.* at 741. The court reduced his convictions to aggravated criminal sexual abuse and remanded for sentencing on those convictions. *Id.* at 743. This court in *Lara* did not require corroboration of each element of every offense; rather, the majority in *Lara* required corroboration of the key element of the crimes for which the defendant had been convicted that distinguished that offense from a lesser included offense. *Id.* at 743-44 (Murphy, J., specially concurring) (opining that "the case law requires that the evidence presented in corroboration must *tend* to show the crime was committed, not prove every element") (Emphasis in original).

¶ 27 The reasons for requiring specific independent corroboration of certain elements of a crime are well-established and necessary in cases involving sexual assault, and the requirement

of independent corroboration applies in other contexts as well. However, we do not read the cases on which defendant relies to mandate, as defendant urges, the presentation of independent evidence of every element of an offense to corroborate a defendant's confession to that crime.

¶ 28 Where, as here, the defendant's confession represented part of the *corpus delicti*, the evidence independent of the confession need not, by itself, prove the existence of the crime beyond a reasonable doubt. See *Sargent*, 239 Ill. 2d at 183. Corroborating circumstances that prove the *corpus delicti* and correspond with the circumstances related in the confession both can be considered in determining whether the *corpus delicti* has been proven. See *Hurry*, 2012 IL App (3d) 100150, ¶ 11. In the instant case, the prosecution presented sufficient evidence of the delivery of the "Direction to Convey" document, which, when combined with defendant's confession to the events preceding the fraudulent conveyance, established the commission of the offense beyond a reasonable doubt.

¶ 29 Accordingly, the judgment of the trial court is affirmed.

¶ 30 Affirmed.