

No. 1-12-0034

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 DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of Cook
)	County
Plaintiff-Appellee,)	
)	No. 07 CR 24732
v.)	
)	
JAVEEN CASTILE,)	Honorable Domenica A. Stephenson,
)	Judge Presiding.
Defendant-Appellant.)	
)	

PRESIDING JUSTICE SIMON delivered the judgment of the court.
Justices Neville and Pierce concur in the judgment.

ORDER

Held: There was sufficient evidence for a jury to find defendant guilty of the charged crimes. Defendant's convictions for wire fraud do not violate the one act, one crime doctrine.

¶ 1 After a jury trial, defendant Javeen Castile was convicted of theft, wire fraud, and money laundering. Defendant appeals those convictions on the basis that the State failed to meet its

burden of proving certain elements of the crimes and that the wire fraud convictions violate the one act, one crime principle. We affirm.

¶ 2

BACKGROUND

¶ 3 During 2005 and 2006, defendant Javeen Castile obtained loans to purchase four homes in the Chicagoland area. She was charged with theft, wire fraud, and money laundering in connection with the purchases of three of the properties: 7742 South Paulina, 1529 South State Street #7B, and 6040 South Eberhart Avenue. The other property purchase, for which no charges were brought, was for a home located at 3227 West Beach Street. The State alleged that defendant was guilty of the charged crimes because she misrepresented facts on the loan applications, never intended to repay the mortgages, and personally received kickbacks for her participation in a scheme to commit mortgage fraud.

¶ 4 In particular, the State presented evidence that in 2005 and 2006, defendant took out more than \$1 million in loans to purchase property while earning an income between \$36,000 and \$37,000 per year. Defendant's own testimony was that she made less than \$2,000 a month in net income while the mortgage obligations totaled more than \$8,000 per month. Premier Financial Services, a company run by defendant's brother, acted as a broker for the property purchases and received commissions from the sales. The State introduced uncontroverted evidence that the loan documents for each of the properties contained misrepresentations concerning defendant's income, debts, and savings. Defendant also indicated on all three of the loan applications that the home she was purchasing would be her primary residence. Each of the three mortgages was in default within a matter of months after the closing. The State presented bank records and testimony to demonstrate that, a few weeks after the closings at

two of the properties, defendant made separate cash deposits of \$5,000 and \$4,000 and, a few weeks after the third closing, defendant deposited checks from Premier Financial totaling \$16,000.

¶ 5 Defendant testified in her own defense and disputed the charges against her, contending that she acted in good faith. Defendant claimed that she bought the properties as investments. She admitted that the loan applications contained incorrect statements about her financial situation and her intended use of the properties, but she claimed that she did not look at the loan documents and merely signed the forms provided to her. In support of her argument that she acted in good faith and intended to repay the loans, Defendant pointed to the loan payment records which show that she made some payments to the banks before the loans went into default and the fact that she made improvements to the properties. Another theory interposed by defendant at trial was that she was manipulated by her brother.

¶ 6 Defendant contends that her convictions should be reversed because: the State failed to prove the intent requirement of theft; the conviction for money laundering cannot stand without the theft conviction; and the State failed to prove any plan to defraud. In the alternative, defendant argues that the money laundering charge cannot stand because there is no evidence of intent to conceal illegal proceeds and the wire fraud convictions should be vacated because they arise from the same acts as the theft conviction and are the less serious offenses.

¶ 7 ANALYSIS

¶ 8 Theft

¶ 9 When a defendant challenges the sufficiency of the evidence, we must decide whether,

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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 proven beyond a reasonable doubt. *People v. Jones*, 219 Ill.2d 1, 33 (2006). A reviewing court will not substitute its judgment for that of the jury, and will not reverse a conviction for insufficient evidence unless the evidence admitted is so unreasonable, improbable, or unsatisfactory that it raises a reasonable doubt of defendant's guilt. *Id.* To sustain a conviction for theft, the State must prove beyond a reasonable doubt that the defendant knowingly obtained the property of another with the intent to permanently deprive the owner of the use or benefit of the property. 720 ILCS 5/16-1.

¶ 10 Defendant argues that the State failed to prove the intent requirement of theft. The State introduced evidence that defendant misrepresented her income, debts, and savings in order to receive loans that she could not have received had she provided truthful information. At trial, defendant admitted that the financial information in the loan applications and the fact that she would use the homes as her primary residence were not truthful representations. The State introduced evidence that: defendant bought four properties over the course of two years; that the properties collectively cost more than a million dollars; that defendant was making around \$36,000 a year; that the monthly mortgage obligations exceeded her monthly net income by more than \$6,000; and that the mortgages were all in default within a matter of months. The State also presented evidence that Premier Financial, the company run by defendant's brother, acted as her broker for the purchases and received commissions and that, just weeks after the State Street property and Paulina property closed, defendant made separate cash deposits for \$5,000 and \$4,000. Then, just weeks after the Eberhart property closed, defendant deposited \$16,000 in checks from Premier Financial into her personal banking account.

¶ 11 The requisite knowledge and intent for a theft charge may be proved indirectly by inference or by deduction made by the trier of fact based upon the facts and circumstances of the case. *In re Jovan A.*, 2014 IL App (1st) 103835, ¶ 53. Questions of intent are factual in nature and should be resolved by the jury. *People v. Maggette*, 195 Ill.2d 336, 354 (2001). Criminal intent not only can be inferred from, but usually is proved by, circumstantial evidence. *Id.* Here, after hearing all of the evidence, the jury was instructed on the required mental state and the burden of proof and found the defendant guilty.

¶ 12 Defendant interposed defenses to the State's case. She testified that the properties were bought as investments, that she made loan payments to the banks, improvements to the properties, and was deceived by her brother. The defenses she relied upon would have required the jury to conclude that defendant acted without the intent to permanently deprive the bank of the loaned funds. The jury rejected those defenses.

¶ 13 It is the province of the jury to determine the credibility of witnesses, to weigh their testimony, to resolve conflicts in the evidence, and to draw reasonable inferences from the evidence. *People v. Williams*, 193 Ill.2d 306, 338 (2000). A reviewing court will not disturb the jury's verdict merely because it could have determined the credibility of the witnesses differently or could have drawn different inferences from the facts. *People v. Jackson*, 231 Ill.App.3d 801, 806 (1992). Based on the totality of the evidence and circumstances, a rational trier of fact could have concluded that defendant intended to receive and permanently deprive the banks of the loaned funds using false pretenses. We will not substitute our judgment for the jury's and we find no reason to reverse defendant's conviction for theft.

¶ 14 Money Laundering

¶ 15 Under her belief that the State failed to prove theft, defendant argues that the State did not prove the charge of money laundering because the conviction for money laundering was premised on depositing money obtained by theft. A person commits the offense of money laundering when, knowing that certain property represents the proceeds of some form of unlawful activity, he or she conducts a financial transaction which involves the criminally derived property. 720 ILCS 5/29B-1. The jury found that defendant did commit theft and that she conducted a financial transaction with the proceeds.

¶ 16 The State presented evidence that defendant obtained loans that she did not intend to repay and used them to purchase homes. It was the State's position at trial that the commissions received by Premier Financial were, in part, "kicked back" to defendant for obtaining the loans and purchasing the properties. It is clear from the verdict that the jury accepted the State's contention that the monies obtained by defendant were proceeds of theft. The State introduced evidence that defendant deposited the checks from Premier Financial into her personal account, a financial transaction for purposes of the Criminal Code. See 720 ILCS 5/29B-1(b)(1). Accordingly, the evidence and circumstances are such that a rational trier of fact could find defendant guilty of money laundering.

¶ 17 In the alternative, defendant argues that she cannot be guilty of money laundering because there is no evidence that she concealed or disguised the criminally derived proceeds. Defendant concedes that no Illinois courts have discussed an intentional disguise or concealment requirement. The money laundering statute provides that concealing or disguising the nature, location, or source of the criminally derived property is one potential predicate for the offense, 720 ILCS 5/29B-1(a)(1)(B)(i), but a defendant can also be guilty of money laundering if he or she

conducts a financial transaction with the intent to further the unlawful activity from which the criminally derived property was obtained. 720 ILCS 5/29B-1(a)(1)(A). Both the federal money laundering statute and the Illinois statute use the same terminology to declare that it is a crime to conduct a financial transaction with the intent to promote the carrying on of specified unlawful activity. See 720 ILCS 5/29B-1(a)(1)(A); 18 U.S.C.A. § 1956(a)(1)(A)(i). The Illinois Supreme Court has looked to case law interpreting the federal money laundering statute to guide its interpretation of the Illinois statute. *People v. Gutman*, 2011 IL 110338, ¶ 17-18. Here, there was sufficient evidence adduced at trial from which a jury could have rationally concluded that the depositing of the checks promoted the antecedent fraud. See *U.S. v. Paramo*, 998 F.2d 1212, 1217-18 (9th Cir. 1993). Moreover, there was evidence presented from which a jury could have reasonably concluded that defendant in fact concealed criminally derived proceeds. The testimony and records revealed that the parties perpetrating the fraud scheme used Premier Financial as a conduit to funnel money back to defendant as a manner of disguising proceeds obtained from the illegal transactions. One of the checks payable to defendant indicated in the memo line that it was "payroll for proceeds." As defendant did not work for Premier Financial, the misleading description could constitute disguising the source and nature of the funds. See *U.S. v. Namer*, 149 Fed.Appx. 385, 399 (6th Cir. 2005) (a false designation of the nature of funds on the memo line of a check is evidence of concealment for purposes of a money laundering charge). Thus, defendant has presented no basis for reversing her money laundering conviction.

¶ 18

Wire Fraud

¶ 19 Defendant argues that her wire fraud conviction should be reversed because the State failed to prove the existence of a plan to commit fraud. A person commits wire fraud when he or she

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devises a scheme to obtain money or property by means of false pretenses and transmits any writings by means of wire communications. 720 ILCS 5/17-24(b). The State introduced evidence that defendant made misrepresentations on each of the three loan applications as to her financial situation and her intended use of the property. Defendant admitted that the misrepresentations were present. The State also presented evidence that the misrepresentations were made in furtherance of committing theft and that the misrepresentations were transmitted electronically. That evidence is sufficient for a rational trier of fact to find the essential elements of wire fraud.

¶ 20 In the alternative, defendant argues that the wire fraud convictions should be vacated under the one act, one crime doctrine because the wire fraud convictions arise from the same acts as the theft conviction and theft is the more serious offense. It is well-settled that multiple convictions arising from the same physical act cannot stand. *People v. Garcia*, 179 Ill.2d 55, 71 (1997). When multiple convictions of greater and lesser offenses are rendered for offenses arising from a single act, a sentence should be imposed on the most serious offense and the convictions on the less serious offenses should be vacated. *Id.* Although defendant did not raise this argument in a posttrial motion, an alleged violation of the one act, one crime principle affects a defendant's fundamental rights and, therefore, we review the claim under the plain error doctrine. *People v. Harvey*, 211 Ill.2d 368, 389 (2004). Whether a conviction should be vacated under the one act, one crime principle is a question of law which we review *de novo*. *People v. Peacock*, 359 Ill.App.3d 326, 331 (2005).

¶ 21 In *People v. Davis*, 353 Ill.App.3d 790 (2004), we held that convictions for computer fraud and theft did not constitute one act. In so holding, we reasoned that the defendant committed

computer fraud by representing himself as someone else while using a computer in order to obtain a credit card, and that the defendant separately committed theft by accepting the credit card and using it to obtain merchandise. *Id.* at 799. Here, defendant committed wire fraud by transmitting misrepresentations to obtain loans in furtherance of a scheme to defraud, and separately committed theft by acquiring properties with monies obtained under false pretenses and receiving kickbacks for carrying out her role in the scheme.

¶ 22 Wire fraud statutes punish the scheme, not its success. 720 ILCS 5/17-24; *U.S. v. Aslan*, 644 F.3d 526, 545 (7th Cir. 2011). The wire fraud is complete once a defendant, with the requisite intent, has used the wires in furtherance of a scheme to defraud, whether or not the defendant actually collects any money or property from the victim of the scheme. *Id.*; compare 720 ILCS 5/17-24(b) (stating that wire fraud involves devising the scheme to obtain money or property by false pretenses) with 720 ILCS 5/16-1 (stating that theft involves obtaining control over another's property). After completing the crime of wire fraud, defendant engaged in separate physical acts to commit the crime of theft. Therefore, the imposition of convictions for both offenses does not offend the one act, one crime principle.

¶ 23 CONCLUSION

¶ 24 Accordingly, we affirm the judgment of the Circuit Court of Cook County.

¶ 25 Affirmed.