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ATTORNEY FOR APPELLANT:

MICHAEL P. QUIRK
Public Defender
Muncie, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

KATHY BRADLEY
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

JAMIE L. HUMPHREY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 18A02-0906-CR-530
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE DELAWARE CIRCUIT COURT
The Honorable Marianne L. Vorhees, Judge
Cause No. 18C01-0710-FC-50

January 5, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Jamie Humphrey appeals her convictions for six counts of forgery and one count of conspiracy to commit forgery, all as class C felonies.[1]

We affirm.

ISSUE

Whether there is sufficient evidence to support the convictions.

FACTS

Humphrey began babysitting for Belinda Smith's daughter at Smith's Muncie home in the summer of 2007. At the time, Smith kept her blank checks in a dresser, located in her bedroom.

At some time prior to August 28, 2007, Humphrey moved in with her friend, Mitsi Landers, and Landers' then-fiancé, Jonathon Marlow. On August 28, 2007, Humphrey showed some of Smith's checks to Landers and Marlow. She "wonder[ed] how she could get some money to get her car fixed." (Tr. 117). After Marlow told Humphrey that she needed to "find somebody with a checking account or a savings account," who would be willing to cash the checks, Landers agreed to contact her friend, Jeremy Fox, on Humphrey's behalf. (Tr. 117).

Humphrey asked Fox "if he ha[d] a savings account or an account at a bank where" they could cash the checks. (Tr. 118). She claimed that she could not cash the

[1] Ind. Code § 35-43-5-2.

checks herself because she lacked state-issued identification. Fox agreed to assist Humphrey.

Later that day, Fox went to Landers' apartment. Prior to his arrival, Humphrey had written a check on Smith's account, payable to Fox, and signed Smith's name. Marlow gave the check to Fox; he and Fox then went to WGE Federal Credit Union ("WGE"), where Fox cashed the check. Humphrey, Fox, and Marlow repeated the process five times between August 28, 2007, and August 31, 2007.

In September of 2007, while checking her bank account on-line, Smith realized that her checking account was overdrawn. She discovered that six checks written on her account were made payable to Fox; however, she did not know Fox and did not authorize the checks. The checks totaled $493.00. Smith subsequently confronted Humphrey regarding the stolen checks. Humphrey denied any involvement and denied "hav[ing] anybody in [Smith's] house[.]" (Tr. 32).

On October 9, 2007, the State charged Humphrey with six counts of forgery and one count of conspiracy to commit forgery, all as class C felonies. The trial court commenced a jury trial on April 22, 2009.

During the trial, Smith, Marlow, and Landers testified to the foregoing. Fox, who acknowledged that he has "various different types of learning disabilities," also testified that in August of 2007, he received a telephone call. (Tr. 44). He believed that it was from Landers but it could have been from Humphrey. According to Fox, he may have

spoken with both of the women. During the telephone conversation, one, or possibly both, of the women asked him to cash some checks.

Fox further testified that he never saw "anybody fill out the checks" but that Marlow would give him the checks. (Tr. 47). According to Fox, Humphrey "usually was" home when he went to pick up the checks. (Tr. 52). He also testified that he would give the money from the cashed checks to Marlow.

On April 22, 2009, the jury found Humphrey guilty as charged. The trial court held a sentencing hearing on May 27, 2009. The trial court sentenced Humphrey to five years, with two years suspended, on each of the seven counts and ordered that the sentences be served concurrently for a total executed sentence of three years.

DECISION

Humphrey asserts that the evidence is insufficient to support her convictions for forgery and conspiracy to commit forgery. Specifically, she argues that "[n]ot one witness could identify [her] at the bank cashing the checks or any expert that could identify [her] handwriting on the checks"; neither Fox nor Marlow saw her "with or spending any of the money from the cashed checks"; and the "testimony from the 'eyewitnesses' is inconsistent and cannot be believed." Humphrey's Br. at 9, 8, 5.

> When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling.

> Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations and citations omitted). We will sustain a judgment based on circumstantial evidence alone if the circumstantial evidence supports a reasonable inference of guilt. *Altes v. State*, 822 N.E.2d 1116, 1121 (Ind. Ct. App. 2005), *trans. denied*.

Although an accomplice's testimony is subject to high scrutiny, such testimony is by itself sufficient to sustain a conviction. *Herron v. State*, 808 N.E.2d 172, 176 (Ind. Ct. App. 2004), *trans. denied*. "The fact that the accomplice may not be completely trustworthy goes to the weight and credibility of his testimony, something that is completely within the province of the jury and cannot be reviewed on appeal." *Id.*

Indiana Code section 35-43-5-2(b)(1) provides that "[a] person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made . . . by another person," commits class C felony forgery. Indiana Code section 35-43-5-2 "does not require monetary gain for a conviction of forgery." *Flick v. State*, 455 N.E.2d 339, 342 (Ind. 1983). "What is required is proof of intent to defraud." *Id.*

Here, both Landers and Marlow testified that Humphrey possessed Smith's checks; made the checks payable to Fox; and signed Smith's name. Smith testified that of the four people involved in the check-cashing scheme, only Humphrey had access to

her blank checks. When confronted by Smith, Humphrey denied that anyone else had been in Smith's home while she was babysitting. Smith also testified that she did not know Fox or authorize that the checks be issued to him. Fox, who was acquainted with Humphrey, testified that Humphrey had been present when Marlow gave him Smith's checks to cash.

Humphrey's counsel cross-examined Fox, Landers, and Marlow; thus, the jury was able to independently evaluate their testimony. Humphrey is asking this court to reweigh the evidence and judge the witnesses' credibility, which we will not do. The evidence presented at trial is sufficient to support Humphrey's conviction.

Affirmed.

KIRSCH, J., and MAY, J., concur.