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IN THE
COURT OF APPEALS OF INDIANA

EBONY BELL	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0811-CR-667
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Heather Welch, Judge
Cause No. 49F09-0708-FD-177904

June 16, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Ebony Bell appeals her conviction for theft as a class D felony.[1] Bell raises one issue, which we revise and restate as whether the evidence is sufficient to sustain Bell's conviction. We affirm.

The facts most favorable to the conviction follow. Bell worked for Reliable Staffing, a temporary staffing agency, between April 12, 2007 and July 13, 2007. Bell received a paycheck for $129.72 from Reliable Staffing, which had Reliable Staffing's account number on it. On July 6, 2007, Bell went to a Chase Bank branch and cashed her paycheck. Bell then filled out a withdrawal slip with Reliable Staffing's account number, signed the withdrawal slip, and withdrew $120 from Reliable Staffing's account. Bell did not have permission from Reliable Staffing to make a personal withdrawal from Reliable Staffing's account. Bell was subsequently informed that the $120 came out of Reliable Staffing's account, but Bell did not attempt to pay Reliable Staffing the $120.

The State charged Bell with theft as a class D felony. At the trial, Bell testified that she cashed her paycheck for $129.72, deposited the cash into her account, and then filled out a withdrawal slip with Reliable Staffing's account number. Bell also testified that she received the account number information for the withdrawal slip from the teller.

[1] Ind. Code § 35-43-4-2 (2004).

Charles Gibson, the bank manager, testified that if the customer does not know their account number, the teller will look up the account number by entering the customer's social security number, which did not occur here. The trial court found Bell guilty as charged. The trial court sentenced Bell to serve 545 days with 365 days suspended to probation. The trial court ordered Bell to serve the executed portion of her sentence on home detention through electronic monitoring services.

The sole issue is whether the evidence is sufficient to sustain Bell's conviction. When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess witness credibility or reweigh the evidence. Id. We consider conflicting evidence most favorably to the trial court's ruling. Id. We affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." Id. (quoting Jenkins v. State, 726 N.E.2d 268, 270 (Ind. 2000)). It is not necessary that the evidence overcome every reasonable hypothesis of innocence. Id. at 147. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. Id. A theft conviction may be sustained by circumstantial evidence. Ward v. State, 439 N.E.2d 156, 159 (Ind. 1982).

The offense of theft as a class D felony is governed by Ind. Code § 35-43-4-2, which provides that "[a] person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any

part of its value or use, commits theft, a Class D felony." Thus, to convict Bell of theft as a class D felony, the State needed to prove beyond a reasonable doubt that Bell knowingly exerted unauthorized control over Reliable Staffing's property, i.e., money, with intent to deprive Reliable Staffing of any part of the property's value or use.

Bell argues that there was "[n]o direct evidence of" her intent. Appellant's Brief at 6. "Intent involves a person's state of mind, and the fact finder can 'infer its existence from surrounding circumstances when determining whether the requisite intent exists.'" Davis v. State, 863 N.E.2d 1218, 1220 (Ind. Ct. App. 2007) (quoting Goodner v. State, 685 N.E.2d 1058, 1062 (Ind. 1997)), trans. denied. Bell also argues that "she did not know her account number 'by heart' and that it was her practice to ask the bank teller for that information when she filled out withdrawal slips." Appellant's Brief at 6. However, the trial court stated, "I just don't believe [Bell]." Transcript at 72. Bell merely asks that we reweigh the evidence, which we cannot do. See Drane, 867 N.E.2d at 146.

Based upon the record before us, we conclude that the State presented sufficient evidence to show that Bell knowingly exerted unauthorized control over Reliable Staffing's money with intent to deprive Reliable Staffing of any part of the money's value or use. See, e.g., McHenry v. State, 820 N.E.2d 124, 126-127 (Ind. 2005) (holding that the evidence was sufficient to sustain the defendant's conviction for theft).

For the foregoing reasons, we affirm Bell's conviction for theft as a class D felony.

Affirmed.

CRONE, J. and BRADFORD, J. concur.