



## **Case Summary**

Edward Broadus, Jr. (“Broadus”) appeals his convictions for Forgery,<sup>1</sup> as a Class C felony, and Resisting Law Enforcement,<sup>2</sup> a Class D felony upon which judgment was entered as a Class A misdemeanor, presenting the single issue of whether the convictions are supported by sufficient evidence. We affirm.

### **Facts and Procedural History**

On March 17, 2008, sometime around five or six in the afternoon, an individual later identified as Edward Broadus, Jr., entered the Lincolnway Foods store in South Bend to cash a check made out to a “Charles Payton.” After receiving an identification card with the name “Charles Payton” on it, the clerk, Abdal Farhan (“Farhan”), became suspicious of the authenticity of both the check and the identification card. Telling the customer that he needed to obtain approval for a check of the amount presented, Farhan entered the office behind his counter.

Instead of calling his supervisor, Farhan called the police. In the time between his call to the police and the arrival of the first officer, Broadus asked if Farhan had called the police. Farhan responded that he was on the line with his supervisor. As the first officer on the scene arrived and entered the store, Broadus attempted to snatch up an identification card and leave the store.

The first officer to arrive, Stephen Berger, was responding in-uniform to the call

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<sup>1</sup> Ind. Code § 35-43-5-2(b)(1) & (3).

<sup>2</sup> Ind. Code § 35-44-3-3(a)(1) & (b)(1)(B).

regarding the check. As Officer Berger entered, Farhan pointed to the customer who was attempting to pass the check, and Officer Berger attempted to speak to him. Seeing Broadus becoming increasingly agitated and nervous, and concerned that he would try to run or fight his way out of the store, Officer Berger moved to handcuff him. Each was pushing in the opposite direction, Berger attempting to handcuff Broadus, and Broadus attempting to push his way out of the store. Broadus landed a punch on the left side of Officer Berger's face.

After Officer Berger subdued Broadus, he discovered a driver's license on him in the name of "Edward Broadus" and a bag with a "little green leafy substance." (Tr. 137.)

The Prosecutor's Office contacted Roxanne Lauer ("Lauer"), Chief Financial Officer of Hess Industries, which was named on the face of the check as its drawer. Lauer confirmed that the check was not issued by anyone at Hess Industries, and that it did not bear either the company's logo or the proper account number for checks drawn by the company on the bank identified on the check. She also stated that she had no knowledge of either a Charles Payton or of Broadus ever having worked at the company, nor of any time that Hess paid for temporary workers through its own accounts.

Broadus was charged with Forgery, Resisting Law Enforcement, Battery, and Possession of Marijuana. On September 2, 2009, at the conclusion of a jury trial, Broadus was found guilty of Forgery and Resisting Law Enforcement.<sup>3</sup> The trial court delayed entry of judgment on Resisting Law Enforcement until December 10, 2009, when it entered

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<sup>3</sup> Broadus was acquitted of Battery against a law enforcement officer engaged in the execution of his official duty, Ind. Code § 35-42-2-1(a)(2)(A), and Possession of Marijuana in an aggregate amount of less than thirty grams, Ind. Code § 35-48-4-11.

judgment for the offense as a misdemeanor instead of a felony. On the same date, he was sentenced to an aggregate of six years of imprisonment, with five years suspended, and probation for four years following release from custody. This appeal followed.

### **Discussion and Decision**

When reviewing the sufficiency of the evidence, we 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 the credibility of witnesses or reweigh evidence. Id. We will 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)). “The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” Id. (quoting Pickens v. State, 751 N.E.2d 331, 334 (Ind. Ct. App. 2001)).

### Forgery

In order to convict Broadus of Forgery as charged, the State was required to prove beyond a reasonable doubt that Broadus, with the intent to defraud Lincolnway Foods, uttered<sup>4</sup> a written instrument on the checking account of Hess Industries by presenting that instrument for payment at Lincolnway Foods in such a manner that the instrument purported to have been made by another person or by the authority of one who did not give authority. Ind. Code § 35-43-5-2(b)(1) & (3); App. at 2. Broadus contends the State failed to establish

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<sup>4</sup> Indiana Code section 35-41-1-27 defines “utter” as “to issue, authenticate, transfer, publish, deliver, sell, transmit, present, or use.”

his intent to defraud.

It is not necessary that a defendant know an instrument is false to be convicted of forgery. Wendling v. State, 465 N.E.2d 169, 170 (Ind. 1984) (citing Whitacre v. State, 274 Ind. 554, 412 N.E.2d 1202 (1980)). The inquiry instead turns on whether the defendant intended “to deceive and thereby work a reliance and an injury.” Williams v. State, 892 N.E.2d 666, 671 (Ind. Ct. App. 2008) (quoting Wendling, 465 N.E.2d at 170), trans. denied. An individual engages in intentional conduct if it is that person’s “conscious objective” to engage in that conduct. Ind. Code § 35-41-2-2(a). Without an admission to establish intent, the fact-finder must often “resort to the reasonable inferences based upon an examination of the surrounding circumstances to determine” whether, based on the conduct of the individual and the natural consequences from that conduct, the requisite intent has been shown or may be inferred. M.Q.M. v. State, 840 N.E.2d 441, 446 (Ind. Ct. App. 2006) (quoting Germaine v. State, 718 N.E.2d 1125, 1132 (Ind. Ct. App. 1999)). Circumstantial evidence may be used prove an intent to defraud. Williams, 892 N.E.2d at 671.

The State presented testimony that Broadus presented a check made payable to Charles Payton on a non-existent bank account which was purported by the check to belong to Hess Industries. Broadus carried two pieces of identification bearing his photograph, one imprinted with his name, the other imprinted with the name Charles Payton. Broadus claimed that he had a casual acquaintance, “Chuckie,” who had an arrangement with a store clerk for cashing checks. Later Broadus stated on a squad car camera recording that he purchased the false identification card and forged check from someone else. When there was

a delay in obtaining cash for the check, Broadus asked whether the clerk had called the police. When Officer Berger arrived Broadus became visibly nervous upon the clerk's identification of him, and he attempted to seize at least one item off the counter and leave the store.

In short, Broadus invites us to reweigh the evidence, which we will not do. See Drane, 867 N.E.2d at 146. There is sufficient evidence from which the fact-finder could conclude that Broadus intended to defraud Lincolnway Foods by causing the store to rely upon the authenticity of those items.

#### Resisting Law Enforcement

To convict Broadus of Resisting Law Enforcement, as charged, the State was required to prove that Broadus with force knowingly resisted Officer Berger while he was lawfully engaged in the execution of his official duties, and in doing so caused bodily injury to Officer Berger by struggling with Officer Berger and causing him pain. Ind. Code § 35-44-3-3(a)(1) & (b)(1)(B); App. at 3. Broadus claims he never hit Officer Berger.

The State introduced testimony from both the store clerk and Officer Berger that Broadus attempted to flee Lincolnway Foods upon seeing or talking with Officer Berger and, failing that, struck Officer Berger in the face while Officer Berger attempted to handcuff him. The record also includes a photograph of Officer Berger showing a red mark on the left side of his face that corresponded to both Officer Berger's testimony and that of the store clerk as to where Broadus struck Officer Berger. Officer Berger testified that the blow to his face was painful.

We again decline Broadus's invitation to reweigh the evidence. The evidence is sufficient for a fact-finder to conclude that Broadus with force knowingly resisted Officer Berger in his lawful engagement in execution of his official duties and caused bodily injury to Officer Berger.

### **Conclusion**

There is sufficient evidence to support Broadus's convictions for Forgery and Resisting Law Enforcement.

Affirmed.

MAY, J., and BARNES, J., concur.