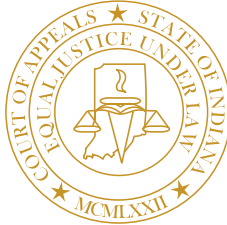


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Seth Christopher Straws,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

December 3, 2024

Court of Appeals Case No.
24A-CR-929

Appeal from the Hendricks Circuit Court

The Honorable Daniel Zielinski, Judge

Trial Court Cause No.
32C01-2207-F6-552

Memorandum Decision by Judge Bradford
Judges Bailey and Foley concur.

Bradford, Judge.

Case Summary

- [1] On July 5, 2022, the State charged Seth Straws with Level 6 felony forgery and Level 6 felony theft after he fraudulently cashed a check at a Chase Bank branch (“the Bank”) in Avon. A jury found Straws guilty as charged, and the trial court imposed a 730-day sentence, all of which was suspended to probation. Straws challenges the sufficiency of the evidence to sustain his convictions. Finding that the evidence is sufficient to sustain Straws’s convictions, we affirm.

Facts and Procedural History

- [2] In June of 2022, Tabitha Hobbs and her husband were building a housing addition in Gosport. Hobbs, responsible for issuing the checks to cover the cost of materials and labor, wrote and mailed a check to Winsupply, a wholesale company in Bloomington specializing in homebuilding projects. When she wrote a check for a particular project, Hobbs would include the address of the home for which the materials were being purchased on the memorandum space (“the memo line”) of the check. In this case, she had written “4021 Mt. Carmel” on the memo line. Tr. Vol. II p. 59.

- [3] On June 29, 2022, Cressa Andrew was working as a teller at the Bank in Avon. Straws approached the counter to cash a check issued by Hobbs and payable to “Seth C. Straws” in the amount of \$2461.60. Ex. Vol III p. 3. Straws was wearing a face mask covering the bottom half of his face when Andrew reviewed Straws’s driver’s license and confirmed that the photograph matched the person in front of her. After conducting the bank’s required procedures for a non-customer cashing a check, which included double-checking her work and entering her initials a second time because the check was over \$2000.00, Andrew cashed the check and gave Straws \$2461.60 from Hobbs’s account.
- [4] Later, Winsupply telephoned Hobbs’s husband, inquiring about the missing payment. Hobbs checked her online bank statement, confirmed that the check had been cashed, and reviewed the transaction history. Hobbs, who happens to work at a Chase branch in Bloomington, noticed that the check had been altered: the signature was hers, but “everything else” was not in her handwriting, and the check had been made payable to Straws. Tr. Vol. II p. 58. The memo line still included the Mt. Carmel address, but the check amount was slightly different than the amount she had owed. Winsupply informed Hobbs that it had recently had mail stolen from its mailbox, and Hobbs settled the debt with Winsupply over the phone, for the owed amount of \$2426.42.
- [5] Hobbs investigated on her own and discovered that the person who had cashed the check had used a “photo ID and a social security card[.]” Tr. Vol. II p. 63. Hobbs called the police, the fraud department at the Bank, and made a claim for check fraud.

- [6] After being assigned to the case, Avon Police Sergeant James Schwartz spoke with Hobbs; a detective from the Spencer Police Department; and eventually, Andrew. As a result of his investigation, Sergeant Schwartz received Straws's driver's license number and ran the information through the BMV database, which returned Straws's photograph, name, and date of birth. At the bank, Andrew provided Sergeant Schwartz with a description of the suspect's hair color, size, weight, and name, which accurately matched the information and unique appearance that Sergeant Schwartz had seen from the database search.
- [7] As the investigation progressed, Hendricks County Prosecutor's Office Investigator Aaron Payne requested and received a search warrant for Straws's Gmail account. Investigator Payne provided the location data he had received to Plainfield Police Department Detective Justin Walker, who then used a program to create a visual representation of Straws's whereabouts on the day the check was cashed. The program showed that Straws had been at or near two PNC banks and the Bank in Avon on that day.
- [8] On July 5, 2022, the State charged Straws with Level 6 felony forgery and Level 6 felony theft. Following a jury trial in February of 2024, the jury found Straws guilty as charged. On April 24, 2024, the court imposed a 730-day sentence, all of which was suspended to probation.

Discussion and Decision

- [9] Straws contends that the evidence is insufficient to sustain his convictions.

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 factfinder 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) (internal brackets, citations, and quotations omitted). Stated differently, in reviewing the sufficiency of the evidence, “we consider only the evidence and reasonable inferences most favorable to the convictions, neither reweighing evidence nor reassessing witness credibility” and “affirm the judgment unless no reasonable factfinder could find the defendant guilty.” *Griffith v. State*, 59 N.E.3d 947, 958 (Ind. 2016).

[10] In order to prove that Straws committed Level 6 felony forgery, the State was required to prove that Straws, with the intent to defraud, made, uttered, or possessed “a written instrument in such a manner that it purports to have been made: (1) by another person; (2) at another time; (3) with different provisions; or (4) by authority of one who did not give authority[.]” Ind. Code. § 35-43-5-2(b). For Level 6 felony theft, the State was required to prove that Straws

“knowingly or intentionally exert[ed] unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use” and the value of the property was “at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000)[.]” Ind. Code § 35-43-4-2(a)–(a)(1)(A).

[11] Straws challenges the State’s evidence only as it related to the issue of identity. Specifically, Straws contends that “with no surveillance video, we are left with the uncertain identification by [Andrew], two years after the fact.” Appellant’s Br. p. 19. While Sergeant Schwartz made some effort to obtain the surveillance video from the Bank, he stopped short of seeking it with a subpoena duces tecum or search warrant. Therefore, none were obtained. Furthermore, at trial, Andrew, after being asked how sure she was “in terms of percentage” that Straws was the person who cashed the check, stated, “well since he was wearing a mask[,] and this was like two years ago[,] right now I’m like it’s up in the air.” Tr. Vol. II p. 19. Straws points to this testimony as support for the contention that there was insufficient evidence to prove identity at trial.

[12] We disagree. At trial, Andrew also testified that Straws had provided her with a copy of his driver’s license to verify his identity at the Bank and that she had confirmed that Straws was the person depicted on the driver’s license before she had cashed the check. Andrew verified that the endorsement on the check had matched the signature of the driver’s license she was provided. Andrew had provided Sergeant Schwartz with a description of the suspect that had matched Straws’s height, weight, hair color, and eye color, and Sergeant Schwartz

confirmed that Andrew’s description of the suspect had accurately matched the information and unique appearance that he had seen from his database search of Straws. Andrew identified Straws in court as the person who had tendered the forged check. Finally, the State produced evidence that the location data associated with Straws’s email account placed him at or near the Bank on the day that the check had been cashed.

[13] Considering only the evidence and reasonable inferences favorable to Straws’s convictions, we conclude that the evidence is sufficient to support the jury’s conclusion that Straws was the person who altered and cashed the check at the Bank without Hobbs’s knowledge or permission. The evidence is sufficient to sustain Straws’s convictions.¹ Straws’s argument to the contrary effectively amounts to an invitation for this court to reweigh the evidence, which we will not do.² See *Griffith*, 59 N.E.3d at 958.

[14] We affirm the judgment of the trial court.

¹ To the extent that Straws points to conflicting testimony between the witnesses, we note that it is not our role to resolve conflicts in the testimony, and we decline to do so here. See *Jones v. State*, 701 N.E.2d 863, 867 (Ind. Ct. App. 1998) (providing that “[i]t is the function of the fact-finder to resolve conflicts in the testimony and to determine the weight of the evidence and the credibility of the witnesses”).

² To the extent that Straws relies on the best evidence rule, his argument is misplaced. The best evidence rule requires an “original writing, recording, or photograph” to “prove its content.” Ind. Evidence R. 1002. The purpose behind the best evidence rule is to “ensure that the best version of a particular item of evidence is presented—not that one item of evidence should be disregarded as being less reliable or somehow not as good as another.” *Swihart v. State*, 71 N.E.3d 60, 63 n.3 (Ind. Ct. App. 2017) (citing *Jackson v. State*, 411 N.E.2d 609, 612 (Ind. 1980)). Review of the record reveals that the actual content of the Bank’s video surveillance had not been discussed or testified to at trial. The best evidence rule does not apply.

Bailey, J., and Foley, J., concur.

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