

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEPHANIE DEANN ROBERTS,

Defendant-Appellant.

UNPUBLISHED

June 25, 1996

No. 168824

LC No. E 92-001167-FH

Before: Hoekstra, P.J., and Saad and S.J. Latreille,* JJ

PER CURIAM.

A jury convicted defendant of drawing a check upon a bank without any bank account, MCL 750.131a; MSA 28.326(1). She was sentenced to sixty months of probation and ordered to pay three hundred dollars in costs and three hundred dollars in attorney fees. She now appeals and we affirm.

Defendant first argues that the trial court failed to sua sponte instruct the jury on the alibi defense. However, the record discloses that defense counsel requested, and the trial court gave, an adequate alibi instruction. There was therefore no error, and no ineffective assistance of counsel.

Defendant next asserts that she was denied effective assistance of counsel because her counsel ignored “warning flags” that should have alerted her to constitutional problems with the cashier’s identification of defendant. After carefully reviewing the record, the evidence viewed in its entirety does not raise any “warning flag” that improprieties may have existed. Therefore, trial counsel did not fail to perform an essential duty by not seeking to suppress the identification evidence.

Defendant finally asserts that she was denied due process of law under both the federal and state constitutions because there was insufficient evidence presented at trial. Defendant does not dispute that a check was written on an account that she knew was closed. Rather, she argues that there was insufficient evidence to prove that *she was the person* who committed the crime of writing or delivering a check without having an account.

* Circuit judge, sitting on the Court of Appeals by assignment.

When determining if there is sufficient evidence, this Court looks at all of the evidence in a light most favorable to the prosecution. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994). Viewed in the light most favorable to the prosecution, Vargo identified defendant both at a photo lineup and in court, as the one who passed the check. Two handwriting experts testified that there was no doubt in their minds that the payee's name on the check was written by defendant. In addition, they also noted that there were similarities between writing samples obtained from defendant and the date and the amount written on the check. Viewed in the light most favorable to the prosecution, this evidence is sufficient to ground a finding by a rational jury that defendant was guilty beyond a reasonable doubt.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Henry William Saad
/s/ Stanley J. Latreille